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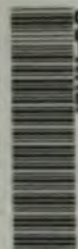
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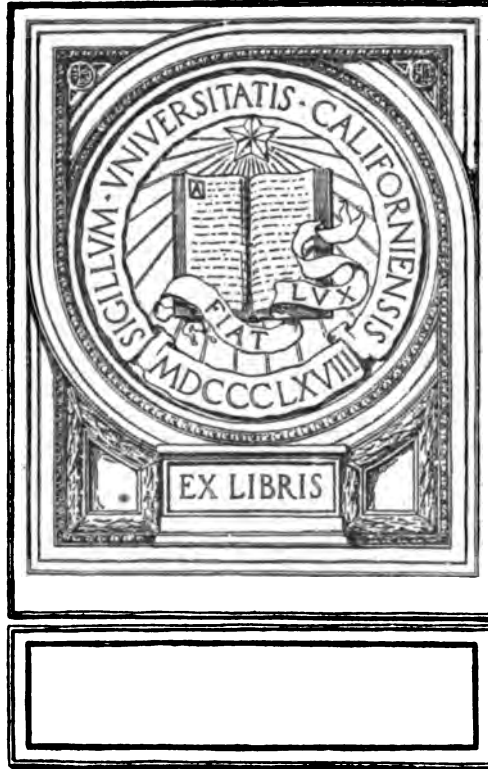
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SOCIAL LEGISLATION IN IOWA

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HISTORY OF
SOCIAL LEGISLATION
IN IOWA

BY
JOHN E. BRIGGS

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EDITOR'S INTRODUCTION

Scholars are no longer called upon to prove that the story of social progress is history. Nor is it necessary to apologize for discussing the promotion of social welfare through legislation: indeed, the modern point of view in all legislation is social. It is, therefore, profitable to review the history of social legislation in Iowa in order that we may see more clearly the steps that should be taken next. Thus the researches of Mr. Briggs in this volume on the *History of Social Legislation in Iowa* will serve both a scientific and a practical purpose.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR
THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA

AUTHOR'S PREFACE

Social problems are everywhere occupying the attention of the public mind to-day. The railroad magnate and the inmate of the poorhouse, the workingman and the scholar, the propagandist and the legislator, all sense the need of social reformation. Deep-seated in the mind of everyone there is the subconscious disapproval of the spirit of professional money-making, of the aristocracy of big business, of the inefficiency that is so prevalent, of the high cost of living, of the standard of public morality, of the method of dispensing charity.

In consequence of the general social unrest and the development of a social conscience, there has followed the endeavor to remedy the situation by legislation. Whenever conditions have become sufficiently adverse or new doctrines have been conceived, agitation for new laws has begun. Legislation may be regarded as the final crystallization of public concern into definite regulations. It may, therefore, be deemed symbolic of the progress that is made.

The purpose of this monograph is the consideration of the laws of this State which have a funda-

mental social bearing, with the object of showing the historical development of social legislation in Iowa and to afford a general view of the whole field. It is hoped that the presentation of this survey will facilitate the discernment of the steps which should be taken next. Consequently only those acts or parts of acts that are indicative of the advance of social welfare have been included, while no attempt whatever is made to trace the devious route by which some measures gained enactment. The work is the chiefly a statement of the contents of laws without their legal verbiage: it is not an effort to account for cause, effect, or value.

As a background for the social legislation of Iowa it has seemed best to sketch briefly the general course of the development of social legislation. Because the influence of England more than that of any other foreign country has been felt in the United States the beginnings of legislation in the interest of human welfare have been discovered there. The review of social measures in this country constitutes the barest outline of social endeavor.

In the discussion of Iowa legislation it has been convenient to use the various official codes as summaries of the legislative work of each preceding period. Thus these codes are made to appear as landmarks along the course of forward movements.

This plan, however, is accompanied with the obvious disadvantage of the omission of numerous temporary changes and short-lived experiments.

Public education is unquestionably a matter of social concern, but inasmuch as it has become a distinct field in itself no attempt has been made to include the legislation in regard to public schools. The subject is being exhaustively treated in another work. Libraries, being educational in character, have also been denied consideration. Because such crimes as robbery and arson are offenses against property rather than persons, the penalties for them are not discussed.

However much may have been accomplished in the line of social welfare during the past it is the first years of the twentieth century that constitute the era of conscious social endeavor. They represent a period so full of new views, so overflowing with advanced ideas that people are bewildered with the efforts of reformers. That Iowa is no exception to the general trend is obvious from the proportion of social legislation before and after the adoption of the *Code of 1897*.

The Superintendent and Editor of The State Historical Society of Iowa, Professor Benj. F. Shambaugh, is responsible by his constant guidance and encouragement for much of the merit which this

volume may possess. To Dr. Fred E. Haynes the author is indebted for many invaluable suggestions and criticisms. Thanks are also due to Dr. Dan E. Clark for his expert advice at every stage of the work; while Miss Helen Otto assisted in the verification of the manuscript.

JOHN E. BRIGGS

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA

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PART I
SOCIAL LEGISLATION IN IOWA
1838-1897

I

INTRODUCTION: WHAT IS SOCIAL LEGIS- LATION?

Among the broad social purposes for which governments are instituted is the preservation of equality of opportunity. Government can not create a home, nor make people industrious, nor beget incentives to culture, morality, and justice; but it can preserve public order, protect the weak from exploitation, advance the cause of learning, stimulate right inclinations, and curb the anti-social members of the community.

The most potent instrument of government regulation in modern times is legislation: hundreds of laws are enacted every year with a view to modifying such conditions as are deemed contrary to the general well-being of society.¹ To protect the rights of the individual and the prerogatives of society — these are indeed the purposes of all legislation. Moreover, legislation may not only forbid harmful acts, but it may assume a positive role and compel righteous conduct. The maintenance of fire escapes, the control of sanitation, and the care of the poor are everywhere classed as protective measures. But when carried to its logical conclusion all such protection becomes paternalistic: compelling persons to

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act in a positive way for their own good, it seeks to develop right inclinations.² Criminals are now being reformed as well as punished.

Society may be thought of as an organism, the parts of which are so closely interrelated that the conduct of every individual becomes a matter of social concern. And so all legislation, whether enacted primarily for the individual or for society, whether regulative or paternalistic, is social legislation.³ At the same time it is clear that certain statutes affect the welfare of society much more directly and vitally than others; and these constitute the body of the legislation which would be designated as social.

Broadly viewed, the acts of legislation which are social in character may be grouped into two classes. In one class may be placed those measures which are essential to the welfare of the government, and these may be designated *socio-political legislation*. In another class may be grouped the statutes which deal with the economic, industrial, and moral interests of the people, and may be called *socio-economic legislation*.⁴ While it must be admitted that all legislation contains a social element and that all acts which are classed as essentially social are inextricably bound up with political and economic factors, still it is practicable to stamp as social legislation those enactments which have for their direct and primary object the betterment of the living conditions of individuals, and in a discussion of such legislation to

either omit or minimize the political and economic factors.

In the first place, then, social legislation in its ordinary and restricted sense would not include such purely political measures as relate to the form and organization of the various departments of government, methods of court procedure, the election of public officials, or provisions for direct legislation. These and similar statutes aim primarily at alterations in the machinery or methods of government; and while in some ways they may exert a social influence, as in the case of the operation of the initiative and referendum, such influence is incidental and does not constitute the ultimate purpose for which the legislation was enacted.

Again, social legislation proper may be distinguished from that which is primarily economic in character — although here the line of demarcation is less distinct. Mothers' pensions, for example, would seem to be entirely social; and yet such pension laws are founded on the economic necessity of relieving the want occasioned by the loss of the husband. Labor problems, on the other hand, appear to be wholly the resultant of the wealth-producing and wealth-using processes; but when the employment of women and children, the dangers of factory work, or the payment of starvation wages are considered, labor legislation at once assumes a social aspect. It would seem legitimate, therefore, in discussing legislation which involves socio-economic problems of

this sort to segregate for special consideration the social elements from the economic factors. There are, however, certain activities which are so completely dominated by the economic factors as to warrant the ignoring of their social elements. The control of corporate interests, banking, the operation of public utilities, and the regulation of commerce are pertinent examples.

What then is social legislation? Above all it consists of those protective measures the object and purpose of which is to effect certain changes in the conditions of human life. It has been defined as the "balancing of individual demands with social demands and with other individual demands, so as to promote the general order by the equalization of opportunity, and to provide for the greatest possible self-realization consistent with the common good; at once to satisfy and reconcile the justifiable claims of the individual and of society as well". Its purpose is to secure for each individual "a standard of living, and such a share in the values of civilization as shall make possible a full moral life"; to obtain "the greatest possible self-realization of the individual consistent with an opportunity on the part of others to strive for a like realization."⁵ Social legislation aims to control human weaknesses and to develop the habit of self-reliance.⁶ It deals with adverse conditions the causes of which are founded on natural phenomena and human association.

One further explanation of the purpose of social legislation should be offered. The Common Law of

England, which is the basis of jurisprudence in the United States,⁷ is founded upon ancient custom as interpreted in court decisions and its principles have in many cases become almost axiomatic of justice. But since social life and conditions are in a constant state of flux certain acts become offenses which hitherto have not been so considered. Thus it has become the obvious office of social legislation to bring the Common Law into conformity with the more recent social demands. Murder has always been a crime, but cruelty to animals has been penalized only as the result of a more refined moral sense.

Thus defined and limited the field of social legislation may be divided into two parts: the first includes legislation affecting particular classes; and the second comprises measures affecting society in general.

In the first division the legislation relates to three classes between which there is a very close and organic connection, namely, the dependents, the defectives, and the delinquents. Collectively, they might be designated as the stationary or retrogressive portion of society. Indeed, a single family will often furnish recruits for all three classes. Consequently there has been much overlapping of jurisdiction in their treatment at the hands of the public, and statutes often include provisions applying to all of them — particularly so because State solicitude in its operation is largely confined to institutions, thus furnishing additional common ground.

Separate classes must be made of pensioners and laborers because the legislation concerning them is

based on considerations very different from those involved in the case of dependents, defectives, and delinquents. Pensions are given for services rendered to society and the government, not because the recipient is an object of State solicitude: they are rewards of merit. Labor legislation aims to insure the welfare of that part of society which lives by manual labor: it is the protection of a class from society rather than the protection of society from a class, as is the case with dependents, defectives, and delinquents.

Legislative acts affecting society in general may be more or less arbitrarily grouped under the following heads: public health, public safety, public morals, and domestic relations — which, in the light of Iowa legislation, seem to cover the ground to the best advantage.

II

THE HISTORY OF SOCIAL LEGISLATION

Social legislation is by no means confined to the present generation: indeed, laws social in their character and effects have for centuries been enacted in a desultory sort of way. At the same time it is true that only in more recent years have the needs of social regulation come to be fully recognized and the enactment of social legislation consciously pursued. To-day legislators are influenced by the social as well as by the individual point of view. As a result a vast amount of social legislation is now being placed upon the statute books.⁸ Wherever religious freedom has been won and a measure of civil and political liberty attained, there has followed a movement for social justice. To trace the development of this movement is to outline the history of social legislation.

At the opening of the nineteenth century individualism, both as a philosophy of life and as a theory of legislation, was at its height. Every man was presumed to be the best judge of his own interests; and it was thought that where each one acted for his own good, the greatest good to all would result. Thus, the interests of society were thought to be nothing more than the aggregate of individual in-

terests. In the economic system — which was then based upon agriculture, handicraft industries, and small business undertakings — competition was relied upon as the influence which would restrain personal aggrandizement and keep prices down.⁹ The “let alone” policy, which claims that conscious effort to improve social conditions is ineffectual, held sway. Industry and charity were to be allowed to take their own course: interference with the efforts of individuals was regarded as unwise if not morally wrong.¹⁰

The same idea was reflected in the political philosophy of the time. It was believed that all men were born equal, with certain inalienable rights; that government derived its power from the consent of the governed; and that the chief end of government was the welfare of the people, which consisted of the protection of person and property. Aside from this protection the government was to interfere as little as possible with the “natural rights” of individuals. In fact so much faith was placed in popular sovereignty and so greatly were the powers of government curtailed in order to prevent a possible lapse into hereditary aristocracy and monarchy that no distinction was made between the limitation of government for this specific purpose and limitation for all purposes. Political theory was mostly negative; and while very definite ideas of what government should not do prevailed, the positive sphere of activity was less clearly described. Indeed, government was regarded as a necessary evil, and many

subscribed to the doctrine of "the less government the better for the people". Thus, under the dominating spirit of individualism, non-interference became the watchword of governmental policy and *laissez faire* the attitude toward industrial pursuits.¹¹

Along with the notion that the field of government activity should be limited as much as possible went the conception that in centralization of power there was danger. Consequently the importance of local self-government was exalted. In America especially were the people jealous of their local independence — so much so that when a national government came to be organized it was permitted to exercise only such powers as were specifically granted to it by the written constitution, and the exercise of powers was circumscribed by many checks and balances. The executive department in particular had fallen into disrepute; while legislatures composed of the representatives of the people and of local districts were accorded a dominating position. Thus, social legislation has been confronted not only with the problem of overcoming a sentiment in favor of *laissez faire* and non-interference but also with the necessity of demonstrating the value of central authority in administration.¹²

The nineteenth century emerged upon the eve of the great Industrial Revolution. For centuries the common people in England had been engaged in agricultural and handicraft industries, with varying degrees of prosperity. The solicitude of the govern-

ment had always been for the upper and property-owning classes. In 1348 the Black Death caused a shortage of labor, and the consequent rise in wages brought about the passage of the *Statutes of Labourers* which forbade any workman to demand or an employer to pay more than the customary rates — the ancient and original precursor of minimum wages. Then came a period of foreign wars and high taxes, which resulted in the Peasants' Revolt of 1381. This was followed by the most prosperous times the English laborer has ever known.

In the sixteenth century fundamental economic changes such as the practice of establishing enclosures, the breaking down of the feudal custom of maintaining retainers, and the extensive pursuit of the sheep-raising industry operated to throw many people out of their ordinary mode of gaining a livelihood. Wages, which were at that time fixed by justices, became so meager that it was necessary in 1601 to place the first poor law upon the statute books. All property was to be assessed for the relief of pauperism; in truth, part of the wages of the laborer were to be paid by the public in order to save expense to the individual employers. The system was made permanent in 1641, and its general principles lasted until 1834. But with the latter half of the eighteenth century the old order passed away and a new era was "ushered in by the whirr and rattle of machinery and the mighty hiss of steam."¹⁸

The epoch of great industrial inventions changed manufacturing from the domestic to the factory sys-

tem, and a new class in society, the working people, was created. Indeed, it was the occasion for a new burst of activity in many fields of endeavor. Business flourished, commerce expanded, and prosperity bespoke progress. Economists, however, clung to the old doctrine of *laissez faire*, and the government was still loath to interfere. Administration remained decentralized and almost entirely local.¹⁴

Such a state of affairs led to grave abuses. Imbued with the commercial spirit of the times and left wholly without restraint, manufacturers collected persons of all ages and both sexes into large buildings under no moral control and without regard to health, comfort, or decency. Children barely six years of age were worked from twelve to sixteen hours a day. The introduction of labor-saving machinery had caused a tremendous dislocation of industry, and with the great increase of population and the employment of children multitudes of able-bodied men were pauperized. Wages fell below the starvation point, and the price of food soared to fabulous heights—thanks to the “corn laws”.¹⁵ The poor laws then in effect provided that the low wages should be supplemented by allowances to every poor family according to its numbers. As a result members of the laboring class lost in self-reliance, in hope, and in incentives to improving their position in life. Illegitimate children became a prize.¹⁶

These deplorable conditions finally brought about a national awakening, in which the first signs of a

social consciousness began to appear. In 1802 Parliament passed an act "for the preservation of the health and morals of apprentices and others employed in cotton and other mills." Slave trade was prohibited in 1806; women have not been punished by whipping since 1820; the first steps in the protection of animals from cruel treatment were taken in 1822; and in 1826 and 1827 government lotteries came to an end. Individualism became tempered with humanitarian motives. Under the advocacy of Jeremy Bentham the movement for scientific law-making was started; while in the field of economics Adam Smith and his disciples were exerting a potent influence. Both were thorough individualists, but they also believed that the ultimate purpose of government was to secure "the greatest happiness of the greatest number". It was a period of moral and intellectual activity.¹⁷

In 1819 and 1831 laws were passed restricting the hours of labor and the age of the employees in cotton mills. Again in 1833 similar restrictions were extended to woolen and other factories. Finally, in 1847 the famous Ten Hours Bill secured enactment and in 1850 a uniform working day was established. These so-called Factory Acts show a steady advance of the principle of state interference, despite the bitter opposition of the manufacturers and the *laissez faire* economists.¹⁸ The results of the purely capitalist and competitive industrial system led inevitably to the regulation of competition and the organization of the workingmen.¹⁹ From such begin-

nings have developed the present-day workmen's compensation, industrial arbitration, and trade unions acts. Municipal ownership of public utilities, beginning in 1835 with the establishment of public markets, has now been extended to include street railways, lighting and heating plants, telephones, and even municipal housing.²⁰

Directly upon the return of hope and self-reliance among the laboring class followed the reform of the poor laws in 1834, and the constructive work among dependent and defective classes was begun. National responsibility was recognized and lunatics were cared for, infirmaries were built, and facilities for the education of children provided by the central authority. An outbreak of cholera in 1831 forced the question of public health before the people for solution. Systematic sanitation began in 1846 with the Nuisance Removals Act, and by 1855 a person was forbidden to have a nuisance even in his own house — such was the extent to which government interference with individual rights had proceeded. At present the housing problem is being met by the allotment system under which local authorities may obtain land, by compulsory purchase if necessary, and sell or rent it to laborers who would otherwise be unable to purchase or obtain a lease of lands at the market rate. In fact since 1830 there has been in England a constant stream of legislation for social betterment — partly enabling people to live according to higher standards, partly insisting that they shall do so.²¹

Government in America was conceived in the spirit of personal liberty, and the protection of individual rights was emphasized in law and administration. The United States began its career as a nation before the advent of steam and machinery, when the domestic system of industry was justified by political philosophy. Individuals were to be allowed to buy and sell labor and commodities under whatever terms and conditions they could secure. As time went on and industry expanded there was further demand of freedom from governmental restraints. Individual enterprise was acknowledged to be the basis of industrial prosperity. Capital and the "infant industries" were sheltered by protective tariffs and given every opportunity to develop.²²

In social matters government was guided by the spirit of the domestic system in industry. The several States — to which, rather than to the Federal government, is confided the control of such affairs — left the regulation of social matters to the local communities. The care of the dependent and defective classes, conservation of the public health, education, delinquency, labor, public safety, and even the standard of morals depended upon local initiative. Moreover, the only public charity was the relief of the poor by the towns and the only correctional institutions were the local jails.²³

The beginning of State control in local and private affairs appears to have been in the field of education, and in no other phase of social welfare has it developed so far. Supervision is now exercised through

State administrative officials, by the distribution of State funds to local districts, by the examination and training of teachers, by compulsory attendance, and even by prescribing courses of study and uniform text-books. The western States have gone to the extent of establishing State universities, which constitute not only the "crowning institution of a great democratic educational system" but stand in the position of public service institutions as well.²⁴

The development of State care of the dependent, the defective, and the delinquent classes has been along two lines of effort: State institutions have been established, and administrative supervision of local officials and private institutions dealing with these classes has been provided. State prisons were the first of the special institutions to be established, and in this reform Massachusetts led the way in 1785. New York followed in 1796. The idea prevailed in Ohio in 1816; and in Michigan the first State prison was built at Jackson in 1839. Only in Delaware and Georgia are there at this date no State prisons.²⁵

On the whole the early years of the nineteenth century saw little progress in the way of social legislation in the United States. The functions of government were still summed up in the protection of individual rights — a condition which was in harmony with the individualistic philosophy of the day. The reins of government were in the hands of a propertied aristocracy who made laws in the interest of the individual as such rather than for the welfare of

the community as a whole. Legislatures had not yet assumed a positive attitude of attempting to advance the general welfare by measures expressly directed to that end.

In the meantime, however, great changes were taking place in the economic life of the people. A new democracy had evolved. The frontier conditions of the West and South had produced an equality in wealth, social standing, and opportunity, altogether novel in the history of the world. Class exclusiveness became an object of suspicion, while confidence in the people met with approval. At the same time there was a great increase in the urban population; and a new class, the working people, dependent upon the sale of their labor power — a toolless, propertyless, homeless class — was created by the new system of industry founded upon the magic of steam. The interests of this class were at variance with those of the freeholders' aristocracy, and so they demanded the right to share in the active exercise of political power.²⁶

Politically one of the most important results of the new democracy was the abrogation of the system of property qualifications for the suffrage and the extension of the electorate to the whole body of adult male citizens.²⁷ Moreover, a great wave of liberal and humanitarian sentiment swept over the country from 1830 to 1860, and in that period are to be found the roots of most of the subsequent social legislation. Although the problem of slavery commanded the attention of statesmen and overshadowed all other

movements for social and political betterment, there were, nevertheless, many significant manifestations of a general altruistic movement.

Reforms of every description were propagated with considerable enthusiasm. New religious sects with strange doctrines, such as the Mormons, made many converts; while the Millerites confidently awaited the advent of the millennium. Socialistic ideas flourished, and communistic associations called Phalanxes were organized in all parts of the country. Brook Farm, the most noted of all communities, was established in 1841, became a Phalanx in 1844, and broke up three years later. The agitation in favor of equal property rights for women was begun. In many States the legislatures were forbidden to grant divorces or to enact special legislation of any sort. Another band of reformers hotly attacked the lottery, with the result that the institution was abolished in nearly all of the States: the final blow was dealt when lottery tickets were excluded from the United States mails in 1890. It was during the fifties that the temperance forces achieved their most notable victories. Maine "went dry" in 1851, and by 1855 thirteen other States had declared for prohibition. The moral conscience became so aroused that capital punishment was regarded as a grievous wrong, the question being argued from its social as well as from its spiritual aspects.²⁸

The agitation against cruel and inhuman punishment brought the facts concerning prisons and

prison life to the attention of the people. Not only were the prisons filthy and unsanitary, but all sorts of miscreants were huddled together regardless of age or sex. Massachusetts in 1846 was the first State to provide a reform school for juvenile offenders, removing them from the local jails and prisons. Other States followed this example until now the majority have established similar institutions, usually with separate departments for boys and girls. Gradually as the idea of reform has supplanted that of punishment in the treatment of criminals, penitentiaries have been converted into reformatories, commitments have been made under indeterminate sentences, and a system of progressive classification and conditional release has been inaugurated. New York was the first State to establish a reformatory for adult offenders, in 1877.²⁹

The investigation of prison conditions revealed the fact that thousands of idiots, epileptics, and insane persons were confined in the jails — men and women destitute of proper care and protection, whose only offense was a mind bereft of reason. Largely through the untiring work of Dorothea Dix these conditions were brought to light, when, beginning with New York in 1843, State after State established insane asylums. The first of the State institutions for the care of defective classes, they still constitute the most important charitable institutions of the State. At first the asylums were intended for only acute and violent cases; but later when the idea of the medical treatment of the curable was devel-

oped, the activities of these institutions was vastly enlarged. Chronic cases, however, are still left largely to the care of local authorities, although in at least two States, New York and Minnesota, local insane hospitals have been abandoned or taken over by the State. The blind, the deaf and dumb, the feeble-minded, the epileptic, the inebriate, and cripples have also come to be cared for in special State institutions. In poor relief there has been but little direct State aid, except in a few States like Massachusetts where strict settlement laws have created a class of State poor. Two-thirds of the States maintain homes for soldiers and sailors, and a few have institutions which care for the orphans and the widows of soldiers and sailors.³⁰

The cholera epidemic of 1848 and 1849 marked the awakening of public interest in the problem of sanitation and its relation to the general welfare. The result was the appointment of State and local boards of health, whose functions at first were purely advisory and in the nature of a study of the causes of disease. As scientific knowledge in regard to hygiene and sanitation has developed, legislation has tried to keep pace: of this the betterment of factory conditions, pure food laws, and the regulation of tenement house construction and sewage disposal are evidences of substantial progress. At present every State, except Idaho, has a central board of health with regulative power. In some cases States have taken charge of vaccination and quarantine. Again, hospitals and sanatoria have been built and

maintained at State expense. The practice has recently grown up of requiring pharmacists, physicians, undertakers, barbers, plumbers, nurses, and others whose business is supposed to affect public health, to obtain a license before practicing their professions. The collection and registration of vital statistics is still largely a function of local agencies: in only a few States is there an adequate system of central control — which control is necessary to the accomplishment of satisfactory results.³¹

During the last half of the nineteenth century there has been a general departure from the early régime of local independence based on individualism. The United States, as well as Germany and Italy, has been influenced by nationalism. With the centralization of power has come more and more governmental interference in social affairs. Governments are still administered on the individualistic basis, in the sense that the protection of the rights and privileges of each citizen is considered a fundamental duty; but the exigencies of modern industrial conditions and urban life have demanded that in many cases individual rights be subordinated to the interests of the community. Government no longer justifies its acts on a theory of the "protection of natural rights", but rather on the grounds of promoting the "general welfare". Where bills of rights were deemed so indispensable in early constitutions, the organic laws of the present contain elaborate clauses in regard to education, health, labor, wages, and corporate control. There has

been an extension of public property. Forest reserves and playgrounds have been established; private property has become a social trust; good will in business is bought and sold as property; new rights such as the protection from injury are akin to private property; and the restriction of the sources of unearned increment show the increasing value which is being placed on service. And so, the development of a social conscience has modified many conceptions of proper conduct in the same way that it has altered the idea of property.³²

It is evident that the problems arising from industry are contributing most to the development of the social conscience. Ethical obligation among the classes of society has always existed, but it seems to have required the recent complexity of society and the interdependence of classes to bring out the relation of the individual to the general public. Dependence of man upon man is not burdensome so long as it is mutual. And so, the wasteful system of competition is giving way to coöperation and conservation: *laissez faire* and non-interference are superseded by government regulation. With the recognition of the fact that society is an organism, Americans are beginning to exercise social forethought and to check the pillage of posterity. The national policy of conservation of natural resources has broadened the idea of the scope of government: the next step is the conservation of human energy.³³

Although the United States may be said to have blazed the trail of political liberty in the eighteenth

and nineteenth centuries, this country now lags far behind her industrial competitors in social welfare legislation. Germany has long recognized the government as an agent for the furtherance of social well-being; and even England, the home of the "let alone" policy has abandoned *laissez faire* in theory and in practice. Several cogent reasons have been assigned for the backwardness of the United States. On account of the abundance of cheap land Americans have persisted in the individualistic notion that a man in this country always has a chance to rise out of the working class — unmindful of the fact that a working class must always remain with its own standards of living, intelligence, and vitality. While the United States has become an industrial nation, the notion founded upon the older agricultural life — that a man had a right to work as long as he pleased and under any conditions he would accept — continues to influence legislation. The diversity of State legislation and the reluctance of States to jeopardize business by too strict rules of social conduct has hampered progressive measures. As yet the labor class has not seen fit to elect its own representatives to the legislatures in any considerable numbers, so that what laws have been passed are largely concessions of the politicians for the labor vote.

Much opposition to social legislation has come from persons of certain political beliefs: the "stand-patters" have invoked the *laissez faire* policy; the socialists fear the establishment of a reformed eco-

conomic feudalism in the shape of paternalistic government; and there are those, best represented by the Industrial Workers of the World, who place their faith not in government but in "direct action" for the solution of modern social problems. Organized political corruption has often stood in the way of schemes for social reform. Equally retarding in its influence has been the strict interpretation of constitutions: time and again the plans of social legislation have been wrecked upon the constitution, despite the fact that constitutions are themselves formulated upon the basis of the ethical code and conditions obtaining at the time of their promulgation.⁴⁴

But the day of indifference to social betterment is passing in the United States. In industry the country has gone through the period of competition, has practically completed the process of concentration, and is even now entering upon the stage of integration. The great concentration of wealth and the complexity of industrial conditions would seem to indicate that the economic basis on which democracy rests is being destroyed. And yet, what appears to be the climax of individual control is likely to pass over into governmental regulation or control and result in a greater extension of democratic activity.

To be sure, America has not reached the paternalistic extreme of doing for the individual that which he can as well do for himself, but the "general welfare" idea is in the ascendency. Legislation is a question of expediency rather than of principle, each

act being decided upon its own merits. The only limitations upon governmental action should be those dictated by experience or the needs of the times. "We do not regard it [the state] as a merely negative factor, the influence of which is most happy when it is smallest, but we recognize that some of the most necessary functions of a civilized society can be performed only by the state, and some others most efficiently by the state; that the state, in a word, is a permanent category of economic life, and not merely a temporary crutch which can be cast away when society becomes more perfect." ³⁵

Social legislation has come to make the law conform to social desires. In the United States there has been no guiding fundamental theory. Here legislation has been empirical, consummated by the desire to meet practical conditions. Halting and feeble as its progress may be — embarrassed in many instances by enactments unwisely conceived — legislation is accomplishing a measure of social justice. But social justice will never be completely and finally achieved, since legislation enacted by and more or less satisfactory to one generation can never fully satisfy the demands of succeeding generations. ³⁶

III

EARLY SOCIAL LEGISLATION IN IOWA

At the first session of the Legislative Assembly of the Territory of Iowa in 1838-1839 there was enacted some social legislation — fragmentary and unorganized, to be sure, but none the less important from the historical standpoint. In this new and eminently democratic country, where agriculture constituted the means of livelihood for the vast majority of the people, there was obviously little need for the sort of social legislation which characterizes the later years of industrial and social complexity. On the frontier paupers were almost unknown; it was no place for defective classes. There were no labor disputes to arbitrate nor industrial accidents demanding compensation; sanitation took care of itself; and housing was entirely a matter of personal ambition. National issues filled a far more important place in politics than was accorded to local affairs. Consequently the statutes to be found in the *Old Blue Book* — the laws passed at the first session of the legislature in 1838-1839 — contain little social legislation.

What might be termed social legislation in the *Old Blue Book* was confined largely to domestic affairs and to such matters as were peculiar to the circum-

stances of the Territory. Many apparent omissions, such as the regulation of marriage, may be accounted for from the fact that much of the law under which the Iowa country was governed when attached to Michigan Territory and as a part of Wisconsin Territory remained in force without reenactment by the Territory of Iowa.³⁷ Moreover, it should be observed at the outset that Iowa has to a considerable extent always followed the policy of codifying the Common Law, and all acts which constitute offenses or crimes have been specifically designated in the statutes.

SOCIAL LEGISLATION IN THE OLD BLUE BOOK

The first great class of people with which the government is concerned in a charitable way are the dependents. This portion of society is composed of those persons who "from any cause, exist by means supplied by the voluntary acts of the community, by gifts from public funds or private sources."³⁸ Here belong helpless infants outside of self-supporting families, infirm old people who are without means of subsistence, and paupers of all grades and kinds. In the first collection of Iowa laws—the *Old Blue Book*—there were no provisions for dependent classes of any kind. The Wisconsin system of poor relief remained in force.

Defective classes are usually dependent as well, causing thereby the care of them to be closely associated with that of dependents. Of defectives the only class to receive mention was the insane. Insanity

was determined by a jury of twelve — the term “insane person” being applied alike to “every idiot, non-compos, lunatic and distracted person”. The legal status of the insane was then and has continued to be practically the same as that of minors.³⁹ If possessed of no property such persons were to be cared for by the overseers of the poor and receive the same benefits as in the relief of paupers.⁴⁰

Closely allied to dependents are those persons “who derive their support, at least in part, by imposing an involuntary burden or sacrifice upon the community, and whose hurtful acts are forbidden by law.”⁴¹ This class sociologists have fittingly termed delinquents. The first laws of Iowa divided public offenses into two classes: felonies, for which a person was liable to be “punished with death, or with imprisonment at hard labor, or in the penitentiary”; and misdemeanors, punishable by imprisonment or fine. The facilities for the confinement of criminals, however, were inadequate during the early years, so that the laws of the Territory provided extensively for punishment by fines. The death penalty was prescribed in the case of murder and such a sentence was to be executed by hanging. The pardoning power was vested exclusively in the Governor.⁴²

On account of the dual classification of crime, two systems of punitive institutions have developed: the jails and the penitentiaries — the former under local authority, the latter under State control. The jails are for temporary and incidental use only, and they are deterrent in character; while the penitentiaries

are used in the case of the gravest offenses and therefore present a more serious aspect of social regulation. The prisoners are retained for longer periods, and their treatment becomes an important social problem. Consequently, State legislation in regard to criminals has been largely concerned with these institutions.

It was at this time that the penitentiary at Fort Madison (Iowa's first State institution of a charitable or correctional nature) was established. The directors were permitted to employ convicts upon the buildings, and afterward the prisoners were to manufacture articles for the market under the direction of the warden. Penalties were fixed for aiding prisoners to escape. Jails in the local areas were to be maintained in a healthful condition; and it was unlawful to confine opposite sexes in the same apartment. For inhuman treatment on the part of a jailor there was a maximum fine of \$500. A special act defined vagrancy and prescribed the treatment of persons answering to that charge.⁴⁸

The first labor law to be enacted in Iowa legalized "mechanics' liens", which operated to secure the payment for labor in building, repairing, and in mining by means of a lien upon the buildings or land. The only regulation of the *Old Blue Book* which might be considered a public health measure was a pure food law forbidding the sale or exposure for sale of any impure or unwholesome meat, bread, beer, or liquor whatsoever. Transportation of passengers by water was safeguarded by compelling

the owners of steamboats to provide safe engines and boilers, to keep their craft seaworthy, and to use care in landing passengers and in the storage of gunpowder. Certain rules of navigation were also prescribed."

Acts which jeopardize the lives, safety, and character of the people are contrary to good moral conduct; and so the first legislators of the Territory of Iowa saw fit to penalize such actions. Murder, manslaughter, excusable and justifiable homicide, duelling, perjury, mayhem, poisoning, false imprisonment, kidnapping, libel, and assault were enumerated and defined. Fighting, stirring up quarrels, making a disturbance at night, rioting or meeting to do an unlawful act, conspiracy, and disturbing worshipping assemblies were considered breaches of the peace and were to be punished accordingly. Disin-terment was prohibited on penalty of a fine of from \$100 to \$500. The offenses against chastity which were recognized in the first laws of the Territory of Iowa were rape, bigamy, adultery, fornication, sodomy, lewdness, and the maintenance of immoral houses. Moreover, rape, kidnapping, perjury, arson, burglary, robbery, sodomy, larceny, forgery, counterfeiting, and bigamy were considered infamous crimes and their commission forfeited the right to vote, hold office, serve as juror, or give testimony in the Territory. The first liquor laws required that retailers should secure a "grocery" license; but to sell or otherwise dispose of intoxicants to Indians was forbidden. Persons were not

allowed to keep gaming houses, lease or permit their property to be used for that purpose, nor to operate gambling devices of any kind. Debts incurred by gambling, however, were held to be valid.⁴⁵

Domestic relations arising out of the state of matrimony with its various consequent circumstances relating to family relationship have been the subject of legislation from the earliest times. According to the *Old Blue Book* applications for divorce had to be filed with the district court and were granted for any of the following causes: impotency, adultery, extreme cruelty, or wilful desertion for one year — but a year's residence in the Territory was required in all cases except adultery. Guardians for minors were to be appointed in the event of such persons having no parents living or capable of acting, and such guardians were to see to the education and nurture of such wards as well as attending to their property. Minors over fourteen years of age were allowed to choose their own guardians. A law regulating apprenticeship made the consent of the parents necessary, required a statement of the length of the term, and set out the procedure in case of misconduct on the part of either of the parties involved.⁴⁶

SOCIAL LEGISLATION IN THE BLUE BOOK

From forty pages in the *Old Blue Book* the volume of social legislation increased to the extent of occupying approximately seventy pages of the *Revised Statutes of 1842-1843*, otherwise known as the *Blue Book*.

Of prime importance was the enactment of the first poor law in Iowa.⁴⁷ As it was rewritten in the *Revised Statutes* the care of paupers was intrusted mainly to township overseers of the poor. County commissioners, however, were authorized to build poorhouses and to levy a one mill tax for poor relief if necessary. All permanent support was to be afforded in the poorhouses, or, if there was no such institution, indigent persons were to be contracted out for a year at a time. The provisions in the earlier law of 1840 for the support of paupers by relatives and for the care of minor paupers were omitted. To be entitled to relief a year of residence in a township, without being warned to depart, was essential; but negroes were entirely excluded from gaining a settlement. Poorhouses were subject to monthly inspection; the superintendent was permitted to require work of the inmates; and children in the poorhouse could be bound out until they became of age. Provision was also made for the care of needy persons having settlement in another county or State.⁴⁸

In regard to the insane a new law appears in the *Blue Book* regulating the guardianship of their property, and if the parents were not able to maintain them, their children, grandchildren, or grandparents, if able, were to offer support. Otherwise the indigent insane were entitled to relief under the poor law as before.⁴⁹

It is noticeable that by 1843 imprisonment as a method of punishing criminals was more in favor

than it appeared to have been in the earlier laws. Provision was made in the *Blue Book* for the transfer of a prisoner arrested in one county to another for safe keeping; while in the penitentiary convicts were to be hired out, though not separately, at odd jobs in Fort Madison. Imprisonment for debt was abolished by an act approved on February 8, 1843.⁵⁰

Several additions were made to the legislation affecting public morals. Persons presenting exhibits and shows were obliged to obtain a license. Incest was added to the list of offenses against chastity. Anyone operating a lottery became subject to a maximum fine of \$200; and gambling debts were declared void. Selling liquor, laboring, fishing, or shooting upon the Sabbath, and swearing in court or before a religious assembly were declared immoral practices, and penalties were fixed for the punishment of the offenders.⁵¹

The marriage law in operation at this time permitted male persons over eighteen years of age and females over fourteen to be married, with the consent of their fathers, by a minister of the gospel or justice of the peace, after having obtained a certificate from the clerk of the court in the county of the woman's residence. The time and place of the ceremony was to be recorded within three months. The marriage of a negro and a white person was declared illegal. To obtain a divorce there were eight grounds available: impotency, bigamy, adultery, desertion for one year, felony or infamous crime, habitual drunkenness after marriage, cruel and barbar-

ous treatment, and personal indignities. Six months residence was required unless the offense complained of was committed in the Territory or while one of the parties resided therein. The father of an illegitimate child was obliged to pay damages to the mother and support the offspring.⁵²

Further legislation against negroes forbade them to give evidence against white persons. Indians were denied the same privilege.⁵³

IV

SOCIAL LEGISLATION IN THE CODE OF 1851

The first real codification of the laws of Iowa appears in the *Code of 1851*. Although not much new legislation of a social nature was recorded in its pages several significant changes and amendments had been made since the appearance of the *Blue Book* in 1843.

The administration of poor relief was placed in the hands of the county judge, but he was aided by the township trustees, who were ex officio overseers of the poor, and the directors of the poorhouse. Both outdoor and institutional public relief was afforded, the expense being borne by the county treasury. If the ordinary revenue of the county should prove insufficient for the support of the poor a tax of one mill on the dollar could be levied for the purpose.⁵⁴

Not only were the father, mother, and children of poor persons held accountable for their support, but the grandfather, if able without personal labor, and the male grandchildren, if able, were likewise required, jointly or severally, to maintain such poor persons. This, moreover, included the putative father of an illegitimate child.

The township trustees or the directors of the poor-

house, if called upon to do so, were to direct the manner of relief or maintenance and compel observance by an order from the district court. But before such an order should be issued, written application for it had to be made and the parties charged notified fourteen days previous to a hearing of the allegations and proofs. If the defendants should so demand, the question was to be tried before a jury. The order of the court for relief might call for the payment of money or for taking the indigent person into the home of the relative charged with his or her maintenance — it might be for the entire or partial support — and could be enforced by judgment and execution of the amount due. Property might be seized by the county court in anticipation of the support by the public of a person who had been abandoned by father, mother, or husband, upon the complaint of the township trustees or the directors of the poorhouse in case they had been applied to for aid. The county could recover from the relatives liable for the support of a poor person any money spent in relief, but such proceedings had to be started within two years from the time a cause for action accrued; and in a like manner a more distant relative might recover.

In order to be entitled to county aid a person was required to have a legal settlement in the county to which he applied for relief. A white person who had attained majority, having resided in the State a year without being warned to depart, gained a settlement in the county of his residence; a married wo-

man took the settlement of her husband; an abandoned married woman having obtained permission acquired settlement as though unmarried; legitimate minor children had the settlement of the father, but if he had none then they had that of the mother; illegitimate minor children had the settlement of the mother but if she had none then they had that of the putative father; a minor whose parent had no settlement in the State and a married woman living apart from her husband and having no settlement and whose husband had no settlement in the State, might gain a settlement by residing for a year in a county; and a minor bound as an apprentice or servant gained immediately a settlement where his master had one.

Persons who were county charges, or likely to become such, on coming into a county might be prevented from acquiring a settlement by a written warning to depart authorized by the township trustees, the directors of the poorhouse, the court, or the judge. A person coming from another State, who was neither a citizen nor had a settlement there, might be sent back at the expense of the county or temporarily relieved where he applied for aid. The county where settlement was had was liable to another county rendering relief for the expenses of such aid to a poor person and for charges of removal and support after notice was given. Cases of disputed settlement were tried in the court of the county to which application for relief had been made, or at the request of the other county in some disinter-

ested county, and the procedure was after the manner of an ordinary action.

The township trustees in counties where there was no poorhouse had the oversight of all poor persons within their jurisdiction. They were allowed upon application to provide temporary outdoor relief. The county judge in counties without a poorhouse was vested with authority to contract with the lowest bidder for the support of the poor for one year only at a time, but in counties with poorhouses their support could be contracted out with the use of the poorhouse for a term of three years. Contractors could require work of those physically able.

In order to facilitate the administration of poor relief or to make it more effective, the county court was authorized to order the erection of a county poorhouse, provided such action was approved by a vote of the people. The county judge was in full authority to manage the poorhouse unless the court chose to appoint one or three directors. A steward was in charge of the poorhouse. In counties having poorhouses relief was to be furnished there only, except temporary outdoor relief, annual allowances to possible charges, or as the county judge might order otherwise. No person could be admitted except on the written order of a township trustee, a director of the poorhouse, or the judge. Moderate labor could be required of inmates. When they were able to support themselves their discharge could be ordered. A general inspection was required once a month.

Among defective classes the blind and the deaf and dumb were taken cognizance of and a State appropriation of \$100 a year for the education of each such unfortunate person between the ages of ten and thirty years was made. This appears as the first grant of State aid to special classes of defectives.⁵⁵

In accordance with the system of county government provided for in the *Code of 1851* the jurisdiction over insane persons was conferred upon the county court sitting as a court of probate. Guardians of the person and property of the insane were allowed to commit their charges to jail for the sake of safety.⁵⁶

In the *Code of 1851* appears the first suggestion of a system of criminal statistics — one of the prime requisites in determining the extent and nature of crime and the custody of criminals. Sheriffs were obliged to keep a calendar of all prisoners committed to them, which calendar should contain the names of all prisoners, place of abode, time of commitment and discharge, cause of commitment, the authority that committed them, and a description of their persons. The clerk of the district court was required to report to the Secretary of State annually the convictions in his district, the character of the offense and the sentence imposed, the occupation of the convict, whether he could read or write, his general habits, and the expenses of the county for criminal prosecutions. And it devolved upon the Secretary of State to present to the General Assembly at each regular session an abstract of criminal returns.⁵⁷

Felonies were at this time defined as offenses "punishable with death, or by imprisonment in the penitentiary". Every other offense was deemed a misdemeanor. When the punishment for a misdemeanor was not prescribed by statute it was to consist of imprisonment in a county jail for not longer than one year, a fine not exceeding \$500, or both. The death penalty could be inflicted for treason and for first degree murder. Bail was denied to offenders charged with treason or murder.⁵⁸

The jails in the several counties with the respective sheriffs in charge were declared to be:

First — For the detention of persons charged with offenses and duly committed for trial or examination;

Second — For the detention of persons who may be duly committed to secure their attendance as witnesses on the trial of any criminal cause;

Third — For the confinement of persons pursuant to sentence upon conviction for any offense, and of all other persons duly committed for any cause authorised by law.

There was a keeper for each jail whose duty it was to see that the place was clean and healthful, to furnish sufficient clean water daily to each prisoner for drink and personal use, to provide a clean towel and shirt once a week and wholesome food, well cooked, and in ample quantity three times a day. He was also required to furnish "necessary bedding, clothing, fuel, and medical aid" for all prisoners. The administration of these institutions has always been in the hands of local officials, but a shadow of centralized control appeared in the *Code of 1851*

when the county judge and prosecuting attorney were authorized to act as inspectors.⁵⁹

Should a prisoner become refractory he might be placed in solitary confinement on a diet of bread and water. Hard labor could be required. If one should succeed in escaping from jail he was to be imprisoned for not more than one additional year and fined not exceeding \$300. In case of fire prisoners could be temporarily removed. A judgment might direct the defendant to be imprisoned until the fine and costs in the case were satisfied, but poor persons confined for the non-payment of a fine were to be liberated after thirty days upon giving to the county treasurer a promissory note for the amount of the fine and a schedule of their property. The expenses of county jails were paid by the county — except that the United States was to pay for prisoners committed or detained by the authority of the United States courts.⁶⁰

According to the *Code of 1851* the penitentiary at Fort Madison was under the government of a board of three inspectors and a warden appointed by the Governor. It was the duty of the inspectors to inspect the prison individually every month and collectively every three months, to audit the accounts of the institution, inquire into any misconduct on the part of prisoners or officers, and to make necessary rules and regulations. The warden was to reside within the prison, appoint subordinate officers (except the clerk), take care of the finances of the institution, contract for supplies, practice rigid econ-

omy, and regulate the discipline of the convicts. Other officers were a deputy warden, a clerk, overseers of prison labor and manufacture, and a physician. For negligence or unfaithfulness on the part of these officers in the discharge of their duty the warden could deduct a month's wages, or for allowing a convict to be at large in the prison, conversed with, relieved, or comforted, a fine not exceeding \$500 could be imposed. Upon the estimates of the warden supplies were to be contracted for by the year. The contracts were let on competitive bids and the contractor was required to give satisfactory security.⁶¹

All convicts were sentenced to hard labor rather than solitary confinement, although the latter might be resorted to for the purpose of discipline. Prisoners of the United States could be received into the penitentiary and kept in pursuance of their sentences. No prisoner could be discharged until he had remained the full term for which he was sentenced, good behavior availing only to the extent that the warden might at his discretion reward such convicts by giving them not more than five dollars on their release. Provision was made for the purchase of books with the twenty-five cent fees collected from all visitors — except those legally authorized to view the precincts of the prison. In case of pestilence prisoners could be temporarily removed. Upon entering the prison the property of the convict found upon his person was removed and kept until he was released: if convenient it was placed at interest for

him, unless disposed of according to law. In case of a convict resisting the authority of an officer, or if there was an insurrection at the penitentiary, such an officer, and in the latter instance any person, was allowed to use weapons to enforce obedience, while to wound or kill a rebellious convict was deemed justifiable.²²

The warden was presumed to make every endeavor to apprehend an escaped convict and to that end was authorized to offer a reward of as high as \$50 for his delivery; while the prisoner if apprehended was to be reincarcerated and his term extended as much as five years. Another class of legislation relating to the escape of prisoners is from the angle of those who aid or permit it. In the *Code of 1851* the penalty of from one to ten years in the penitentiary was prescribed for a jailor or officer who voluntarily allowed a prisoner charged or convicted of a capital felony to escape, a fine of not over \$1000 or more than eight years in the penitentiary for voluntarily allowing the escape of one charged or convicted of any other felony, and a maximum fine of \$500, imprisonment in the county jail not over one year, or both for permitting voluntarily the escape of one charged or convicted of any public offense.

If a person should assist a prisoner, who was held for felony, to escape from the penitentiary or a jail, or forcibly rescue one detained upon any criminal charge, such person might be imprisoned in the penitentiary not more than ten years, or fined not more than \$500 and imprisoned in the county jail not more

than one year. Any person helping a prisoner, held for any criminal offense other than felony, to escape, or conveying to him means of escape, was subject to imprisonment in the county jail not exceeding a year, or to a fine not exceeding \$500, or to both the fine and imprisonment. For aiding a prisoner to escape from an officer the maximum penalty was a \$300 fine, imprisonment in the county jail not exceeding one year, or both.⁵³

The Constitution of 1846 which was in force in 1851 empowered the Governor to grant reprieves and pardons and commute punishments after conviction, and the *Code of 1851* made provision for conditional pardons, remission of fines for public offenses, and reprieves in capital cases for not longer than one year by the Governor. Returns of the execution of the order of the Governor were to be made immediately to the Secretary of State.⁵⁴

The attitude toward vagrants was defined much more specifically in the *Code of 1851* than ever before. Moreover, these provisions have met with scarcely any changes since that time. Those who were guilty of vagrancy, it was declared, were "all persons who tell fortunes or where lost or stolen goods may be found; all common prostitutes and all keepers of bawdy houses or houses for the resort of prostitutes; all habitual drunkards, gamblers, or other disorderly persons; all persons wandering about and having no visible calling or business to maintain themselves; all persons begging in public places or from house to house or procuring children

so to do; all persons going about as collectors of alms or [for] charitable institutions under any false or fraudulent pretense; all persons playing or betting in any street, or public or open place at or with any table or instrument of gaming at any game or pretended game of chance."

Vagrants could be arrested, brought before a justice of the peace, and required to guarantee on security their good behavior for one year. They could be committed to jail until such security was given. Should they break their pledge new security could be required or they might be put in the county jail for a term not exceeding six months. The district court was empowered to enquire into the circumstances of vagrancy cases and to authorize the apprenticing of minor vagrants and the contracting with suitable persons for the services of vagrants of full age; or the district court might at its discretion sentence vagrants to hard labor in jail not exceeding six months, the earnings of such a person to be divided equally between him and the county.⁶⁵

Some important changes were made in the law of mechanics' liens. Thus, sub-contractors obtained a lien against their principal; and while the miners' lien of the earlier legislation was omitted a new one was created for persons furnishing labor or materials for bridges, railroads, or other internal improvements. Further labor legislation declared that wages paid to minors were full satisfaction and precluded the collection of a second payment by parents; while personal earnings of a resident debtor,

at any time within ninety days next preceding the levy, were exempted from execution.⁶⁶

In the interest of public health it was declared that anyone inoculating himself or any other person with smallpox, or coming into the State with intent to cause the prevalence and spread of the disease, might be imprisoned in the penitentiary three years, or be fined \$100 and imprisoned in the county jail one year. A maximum penalty of six months in the county jail, \$200 fine, or both was prescribed for selling unwholesome provisions. For adulterating food or liquor that was to be sold a sentence of one year in the county jail or a fine of \$300 might be imposed. The adulteration of any drug or medicine for the purpose of sale so that its efficacy should be lessened or its operation changed was to be penalized by a fine of as much as \$500 or imprisonment for a year.⁶⁷

A nuisance was defined in the *Code of 1851* — so far as its relation to public health is concerned — as something injurious to health, indecent or offensive to the senses, and essentially interfering with the comfortable enjoyment of life and property. The use of a building for a purpose that occasions offensive smells and other annoyances and thereby becomes injurious to health and comfort, suffering any offal, filth, or noisome substance to be collected or remain in a place to the prejudice of others, corrupting or rendering impure the water of any river, stream, or pond, manufacturing gunpowder within eighty rods of another valuable building, and the maintenance of disorderly houses were specifically

designated as nuisances, subject to being enjoined or abated. Anyone convicted of the commission of a nuisance, where no other penalty was provided, might be fined \$1000 or less, and the court could order the nuisance abated at the expense of the defendant.⁹⁸

The regulation of traffic upon the public highway is for the purpose of securing to the public the highest degree of safety, and consequently certain road rules have been formulated, some so common as hardly to need mentioning. Thus, the first road rules prescribed that all highways should be not less than sixty-six feet in width. Guide boards were supposed to be maintained at such points as might be deemed expedient. The road supervisors were responsible for the condition of roads and bridges to the extent that if any part became unsafe or impassable they were liable for all damages resulting.⁹⁹

Moreover, it was deemed necessary to pass a law requiring certain poisons to be labelled in order to protect society from using them wrongfully. Apothecaries neglecting this duty were to be punished by a fine not exceeding \$100 nor less than \$20. Anyone mingling poison with any food, drink, or medicine with intent to kill was liable to be put in the penitentiary for not more than ten years and fined not over \$1000.¹⁰⁰

Offenses against the sovereignty of the State and the lives and persons of individuals are contrary to good moral conduct. The *Code of 1851* penalized treason by death. Murder was recognized in first

and second degree—the former punishable by death, the latter by imprisonment for a term varying from ten years to life. Assault with intent to commit murder was punishable by imprisonment in the penitentiary not exceeding ten years, while like action with intent to do great bodily injury invoked either confinement in jail not exceeding a year or a fine not exceeding \$500. Manslaughter invoked a penalty of imprisonment from one to eight years and a fine of from \$100 to \$1000. Death resulting from a duel was declared to be murder in the first degree; while anyone who was a party to the arrangements for a duel was to be fined not exceeding \$1000 nor less than \$400 and imprisoned for not more than three years nor less than one. For maiming or disfiguring a person the penalty was a term in the penitentiary not longer than five years and a fine not exceeding \$1000 nor less than \$100. Assault with intent to maim or disfigure a person was punishable with imprisonment in the penitentiary not over five years, a fine of not more than \$1000, or both. Imprisonment not over five years constituted the punishment of a father or mother who should expose a child under six years of age with the intent of wholly abandoning it. Persons guilty of assault and battery were to be punished by confinement in jail not longer than six months, or a fine of not to exceed \$200, or both. The penalty for kidnapping was imprisonment in the penitentiary not more than five years, a fine not exceeding \$1000, or both, while any person who enticed away a child under twelve years

of age was to be put in the penitentiary for a term of years not exceeding ten, or fined not over \$1000, or both fined and confined.⁷¹

For fighting one was to incur a fine of \$50 or three months imprisonment. The maximum penalty of imprisonment in jail one year or a fine of \$500 prevailed in the case of unlawful assembly and rioting to the disturbance of others. Any person engaging in a riot or unlawful assembly could be tried alone. Having riotously conducted themselves, if any property should be destroyed or person injured — provided it was not done feloniously — the perpetrators exposed themselves to a maximum penitentiary sentence of five years, or a fine of not over \$500 and confinement in the county jail for a year. Anybody exciting a disturbance in any tavern or store or at a public meeting was to undergo the punishment of being fined not over \$100 or confined in jail for not longer than six months. Officers guilty of stirring up quarrels were to be punished by a fine not exceeding \$500 and became liable to the party injured for treble damages. Disturbing worshipping congregations could be indulged in only at the risk of being put in jail for thirty days or fined \$50; while the selling of intoxicating liquor within a mile of such an assembly invoked a fine not exceeding \$50.⁷²

Conspicuous among the provisions of the *Code of 1851* attempting to preserve public morality was one prohibiting the sale, publication, and distribution of obscene books, pictures, or songs manifestly tending

to corrupt the morals of youth, on penalty of a fine of \$200.⁷³

Practically all of the offenses against chastity were defined and penalized by the *Code of 1851*. Being guilty of adultery a person was to be punished by imprisonment in the penitentiary for not over three years, or by imprisonment in the county jail for not longer than one year, together with being fined not over \$300. Adultery also constituted a ground for divorce. The penalty for a married person being found guilty of bigamy was either not more than five years in the penitentiary, or one year in the county jail and a fine not exceeding \$500; but for an unmarried person to be a party to the crime of bigamy the maximum penitentiary term was three years with the option of a fine of \$300 and imprisonment in the county jail one year. The punishment for obscene and indecent exposure was fixed at a fine not exceeding \$200 or confinement in jail for not longer than six months. Anyone guilty of enticing away a girl under fifteen years of age for the purpose of prostitution was to be imprisoned in the penitentiary not more than three years, or put in the county jail for not more than one year and fined not over \$1000. Furthermore, prostitutes were designated as being vagrants and were subject to treatment as such.⁷⁴

Out of the practice of prostitution have developed houses of ill fame. The *Code of 1851* aimed to prohibit such places by providing a jail term of not more

than one year or a fine not exceeding \$500 for the first offense, and for the second offense, imprisonment in the penitentiary from one to three years, by making keepers answerable to the charge of vagrancy, and by subjecting houses of ill fame to being dealt with as nuisances. The lease of a house being used for prostitution was declared to be void and could be terminated, but if a landlord knowingly leased his property for such a purpose he became liable to a fine not exceeding \$300 or imprisonment in jail for six months or less. Likewise under the *Code of 1851* anyone enticing or inveigling a virtuous or reformed woman to a house of ill fame could be sentenced to the penitentiary for a term of from three to ten years.⁷⁸

Differing somewhat in their nature, being classed as offenses against persons rather than chastity, but none the less immoral or unchaste on that account, are rape and seduction. For committing rape a person could be confined in the penitentiary for life, and for an attempt to do so the maximum punishment was twenty years. If one should compel a woman against her will to marry him or be defiled he was subject to a maximum fine of \$1000 and imprisonment in the penitentiary not exceeding ten years. While technically it was not considered as rape, the same penalty prevailed if the female should be rendered insensible or too weak in mind or body to make effectual resistance. Seduction was punishable by a penitentiary term of not over five years, or imprisonment in the county jail for not more than a

year, together with a fine not exceeding \$1000, but marriage constituted a bar to prosecution."⁸

In the *Code of 1851* a change was indicated in the attitude toward the liquor traffic, the sale of intoxicants by glass or "dram" being prohibited while "dram shops" were declared to be public nuisances. The traffic of liquors, however, as commodities of merchandise was not prohibited. Whoever violated the prohibitory statute was liable to a fine of from \$10 to \$100, imprisonment in the county jail not longer than ninety days, or both. Selling or giving liquor in any quantity to an intoxicated person or an Indian was not permissible, the penalty being a \$200 fine, a term in jail not exceeding a year, or both."

The keeping of gambling-houses was penalized in the *Code of 1851* by a fine of not less than \$50 nor more than \$300, or by imprisonment in the county jail for not more than one year, or both. Authority was also given to search suspected places and destroy any gambling device therein. Gambling-houses were deemed to be nuisances and could be abated. Gambling and betting was punishable by a fine not exceeding \$100, or not over six months in the county jail, and gambling contracts were declared void. A maximum penalty of one year in jail, a fine not exceeding \$1000, or both, was provided for making a lottery, for advertising or selling lottery tickets, or for the possession of any such tickets."

"If any person cruelly beat or torture any horse

or ox or other beast, whether belonging to himself or another, he shall be punished by fine not exceeding one hundred dollars.”⁷⁹

The *Code of 1851* recorded no very marked changes in legislation affecting domestic relations. The age at which males were allowed to marry was reduced from eighteen to sixteen years, and the marriage certificate was to be obtained in the county where the ceremony was held. In addition to ministers and justices of the peace, judges and mayors were allowed to officiate. Illegitimate children became legitimate by the subsequent marriage of the parents. The eighth cause for a divorce was made more general by the phraseology “cannot live in peace and happiness”. The period of minority extended in males to the age of twenty-one years, in females to that of eighteen years, but majority was attained by all minors at marriage. Masters were obliged to clothe apprentices and send them to school four months of the year after they were six years old. The district court was empowered to change the names of persons. A husband or wife could no longer testify against the other.⁸⁰

V

SOCIAL LEGISLATION IN THE REVISION OF 1860

Some ninety pages are devoted to social legislation in the *Revision of 1860*. Important advances along several lines are evidence of the growing concern for social welfare. Moreover, the change from the county judge to the board of supervisors system of county administration had some bearing on social legislation, particularly in the support and care of the poor, for all of the powers formerly exercised by the county judge were transferred to the supervisors. Likewise the adoption in 1858 of the general incorporation law for cities and towns caused the enumeration in the statutes of many powers and duties of social significance enjoyed by them which had hitherto been designated only in the special charters.

These changes in the organization of local government were in truth responsible for the only modifications of the law relating to poor relief. The supervisors replaced the county judge and cities of the first class were given permission to establish and maintain an infirmary for the poor of the city, and provide for the distribution of outdoor relief.⁸¹

In regard to defective classes, however, the decade

which had elapsed since the adoption of the *Code of 1851* had witnessed changes of greater moment. It was during this time that the system of direct money grants by the State for the care of certain classes gave way to the establishment of institutions. The blind and the deaf and dumb, who had been the recipients of such aid, were henceforth to be cared for in asylums at Iowa City. These institutions were educational in character, "all blind persons residents of this state" and "every deaf and dumb citizen of the state" of suitable age and capacity being entitled to admission and an education there at the expense of the State. The asylums were under the supervision of boards of trustees consisting of seven members. The dual system of appropriations for support, one fund for general maintenance and another for current expenses, was followed.²²

The establishment of the Hospital for the Insane at Mount Pleasant in 1858 marks the beginning in Iowa of the care of that class of defectives in State institutions. Its purpose was and has remained in this and the other hospitals a two-fold one: the cure of the curable, and the restraint of those who could not safely be allowed their liberty. Consequently, idiots, who are defective from birth, were not admitted, and cured patients were to be discharged immediately. Incurables and harmless insane were discharged when there was need of room for more recent cases. Public patients were supported by the county of their residence and the number each county was entitled to send was in proportion to the num-

ber of insane persons in that county. Private patients were also admitted, the expense in their case being borne by the relatives or friends filing the application. When for any reason it became necessary to discriminate in the general reception of patients recent cases were given preference over all others; next, chronic cases with the most favorable prospect of recovery; those for whom application had been longest on file, other things being equal, were next preferred; and finally, when cases were equally meritorious, the indigent were to be given preference. Only the "insane", or persons mentally deranged were to be admitted.

Provision was made for the care by local authorities of pauper idiots and dangerous lunatics not admitted to the State hospital, and they together with indigent persons discharged therefrom were to be treated in the same manner as other poor persons. The sum of fifty dollars a year might be paid out of the county treasury for the support of an idiot or lunatic not cared for in a jail or poorhouse. The treatment of insane criminals was set forth at some length. The hospital was under the supervision of a board of seven trustees who appointed a medical superintendent and other "resident officers". Monthly visitation by one or more of the trustees was required.⁸³

Provisions were also made for the appointment of a guardian of the property of an idiot or lunatic, who should also be the guardian of the minor children of his ward. In this case the probate judge

rather than a jury of six persons had jurisdiction to decide the question of insanity. The guardian was empowered to sell the property on proper occasions, to complete the idiot's contracts, and to sue in his own name. He was governed in general by the laws applicable to guardians of minors.⁸⁴

Because the new era in the treatment of juvenile offenders, which had been heralded by the establishment of the New York House of Refuge in 1825, had set up the standard that to send children to prison with adults for definite terms was wrong — that they should be treated as delinquents and not as criminals — cities of the first class in Iowa were authorized to provide houses of refuge for the confinement of delinquent children under sixteen years of age. For persons over sixteen years such cities were allowed to maintain a workhouse.⁸⁵

It was at this time also that cities were empowered to maintain jails which were governed by the same general rules as those of counties, and such special regulations as the council saw fit to pass. They were under the jurisdiction of the marshal. The only other modification of the law affecting jails contained in the *Revision of 1860* was that a judgment directing the defendant to be imprisoned until a fine was satisfied might not exceed one day for every three and one-third dollars of the fine.⁸⁶

At the penitentiary the warden was made sole manager, in place of the board of inspectors, subject to the supervision of the Governor. He was elected by a joint ballot of the General Assembly for a term

of two years, and required to give bond to the State in the sum of \$50,000. The Governor could remove him and fill vacancies in the office. Under this system the warden appointed all subordinate officers including the clerk. He was required to make monthly and biennial reports to the Governor. Other officers were a clerk, who acted as commissary and bookkeeper, a deputy warden, who had charge of the convict labor, a chaplain to give intellectual as well as spiritual instruction, and guards not exceeding one for every ten convicts. Overseers with knowledge and skill in the branches of labor and manufacture carried on in the prison were employed. The penalties for negligence or unfaithfulness in general on the part of officers remained the same; but if anyone connected with the penitentiary should refuse to obey any order or rule he was declared guilty of a misdemeanor and fined not over \$1000, while if such disobedience should result in the escape of any convicts or the loss of over twenty dollars of the funds appropriated for the use of the prison the culprit was to be punished by imprisonment in the penitentiary from two to ten years. The Governor was required either to visit the penitentiary once every three months in person or to appoint someone in his place.⁸⁷

Perhaps the most significant feature in relation to the treatment of criminals contained in the *Revision of 1860* — in the light of present-day conceptions of reform methods — was the appearance of the first scale providing for the diminution of sen-

tences on the basis of good conduct. The deputy warden was in charge of the arrangement. Aside from this possibility, however, or unless he was pardoned, no convict could be discharged from the penitentiary until he had remained the full term. It was permissible to lease prisoners to be worked in shops on the prison grounds.⁸⁸

The *Revision of 1860* empowered the Governor to remit fines and to grant reprieves, commutations, and pardons for all offenses except treason, and in that event he could suspend the execution of the sentence until the case could be reported to the General Assembly. He was required to report to the General Assembly all reprieves, commutations, and pardons granted, with his reasons therefor. In a like manner the names of all persons in whose favor fines had been remitted, with the amount in each case, were to be reported. When application for a pardon, reprieve, commutation, or the remission of a fine was made, the Governor could require information from the trial proceedings. Returns of the execution of the order of the Governor were to be made immediately to the Secretary of State.⁸⁹

In the interest of the laborer mechanics' liens were extended still more in their operation and made transferable. Judgments in favor of a laborer or mechanic for his wages were no longer subject to the ordinary law for the stay of execution.⁹⁰

Public health was further safeguarded by allowing city councils (but not those of towns) to appoint boards of health and invest them with powers and

duties "necessary to secure the city and the inhabitants thereof, from the evils, distresses and calamities, of contagious, malignant and infectious diseases". Cities and towns had authority to abate nuisances, and were required to keep "all public highways, bridges, streets, alleys, public squares and commons" within their limits free from nuisances. They could cause stagnant water to be drained off and putrid substances to be removed from lots. Having the power to regulate public markets, city authorities were to seize immediately and destroy any tainted or unsound meat or other provisions offered for sale. The street commissioners controlled sewerage and sanitation.²¹

The penalty for selling unwholesome provisions was reduced to a maximum sentence of thirty days imprisonment or \$100 fine. A new law made it a felony punishable by a fine not exceeding \$500 or by imprisonment in the penitentiary for not exceeding two years to sell or keep for sale any drugged or adulterated malt or vinous liquors.²²

That the public might be protected from the danger of fire, the authorities of cities and towns (for it is obviously a matter resultant upon congested population) were given power to regulate the construction of buildings: in certain cases requiring them to have non-combustible outer walls. They could also regulate the transportation and storage of combustibles.²³

Another phase of fire protection is to be found in the organization and control of fire companies and

departments. The *Revision of 1860* gave cities and towns power to organize, equip, and maintain fire companies. To encourage the organization of such companies the members were excused from military and jury service, while if they should serve ten years faithfully they were to be forever exempt from military duty in time of peace, from serving as jurors, and from the performance of labor on the highways. It was made a penitentiary offense for anyone to wilfully destroy or injure any engine, hose carriage, hose, hook and ladder carriage, or other thing used for the extinguishment of fires, and for the removal of fire apparatus without authority a fine of from five to twenty dollars was the established penalty. The same punishment prevailed in the case of those turning in false fire alarms.⁸⁴

A new road rule required vehicles when meeting to turn to the right. Cities and towns were responsible for keeping the highways, bridges, streets, and alleys within their limits in repair. They could also prevent and punish fast driving through the streets. Furthermore, railroads were obliged to erect warning signs at crossings: and for damaging railroad property or obstructing the track so that death might be caused thereby one could be sentenced to serve a term of from two years to life in the penitentiary.⁸⁵

The penalty for the failure of apothecaries to label poisons was changed from a fine of from \$20 to \$100 to imprisonment in the county jail for not over thirty days or a fine not exceeding \$100.⁸⁶

In matters pertaining to public morality there were some important modifications and additions in the *Revision of 1860* — the changes in the penalties prescribed being particularly obvious. There were many instances of reduction in the length of jail terms. The list of offenses against the lives and persons of individuals was increased by the addition of feticide, for which the penalty prescribed was imprisonment for not longer than one year in jail and a fine not exceeding \$1000. The punishment for assault and battery was reduced from possible imprisonment for six months, a fine of \$200, or both, to imprisonment for not exceeding thirty days, a fine of not over \$100, or both."

Breach of the Sabbath, declared to consist of engaging in any "riot, fighting, or offering to fight, or hunting, shooting, carrying fire arms, fishing, horse racing, dancing, or in any manner disturbing any worshiping assembly, a private family, or in buying or selling property of any kind, or in any labor, (the work of necessity and charity only excepted,)"', was to be punished by a fine of from one to five dollars. The maximum penalty for fighting was changed from a \$50 fine or three months imprisonment to a \$100 fine or thirty days in jail, while that for unlawful assembly and rioting to the disturbance of others was changed from a year of imprisonment or a fine of \$500 to thirty days confinement or \$100 fine. The penalty for exciting a disturbance in a peaceful gathering was reduced to a maximum fine of \$100 or thirty days in jail. Cities and towns had power to

prevent any riots, noise, disturbance, or disorderly assemblages. The maximum fine for disturbing worshiping congregations was raised from \$50 to \$100, and the punishment for selling intoxicating liquor within a mile of such a meeting was increased from a fine of \$50 to one of \$100 with the optional penalty of spending thirty days in jail.⁹⁹

For selling or distributing immoral literature the penalty was changed from a fine of \$200 to imprisonment for thirty days or a fine of \$100. Cities and towns were empowered to regulate houses of public entertainment and to regulate or prohibit all theatrical performances except lectures on scientific, historical, or literary subjects; while circuses and shows were obliged to obtain a license from the county judge or, if the ordinances of a city or town required it, from the municipal authorities.⁹⁹

Among the offenses against chastity the crime of incest was defined and the punishment of serving from one to ten years in the penitentiary was prescribed. Cities and towns could suppress and restrain disorderly houses and houses of ill fame.¹⁰⁰

The foundation for the present law in Iowa prohibiting the sale and manufacture of intoxicating liquor was contained in the *Revision of 1860*.¹⁰¹ For the first offense of manufacturing liquor a penalty of \$100 fine and the costs of prosecution obtained, for the second offense there was a fine of \$200 and costs, and upon subsequent convictions the punishment of \$200 fine and costs and imprisonment in jail

for ninety days prevailed. The sale of liquor or the owning of it with intent to sell involved for the first offense a fine of \$20 and the costs of prosecution, for the second \$50 and costs, and for subsequent convictions the fine was \$100 and costs accompanied by imprisonment for from three to six months. Whoever erected or used a building for the sale of liquor was declared to be guilty of a nuisance and subject to prosecution accordingly; while the building, as a nuisance, could be abated. Authority was also given to issue search warrants for the seizure of liquor believed to be kept and sold illegally, to try the case, and to destroy the liquor and the vessels containing it if the case against the offender was proved. Contracts for the illegal sale of liquor were void. Peace officers were entrusted with the enforcement of the liquor regulations, while courts and jurors were requested to so interpret them as to prevent evasion. Cities and towns could regulate the sale of intoxicating liquor subject to the provisions of these laws.

If, however, a person should procure the certificate of twelve citizens of the township of his residence that he was of good moral character, a citizen of the State, and a resident of the county, upon giving a bond of \$1000 he might be granted a permit to buy and sell liquor for mechanical, medical, culinary, and sacramental purposes, provided such a person was not proprietor of a hotel, saloon, eating-house, grocery store, or confectionery. Common carriers

were forbidden to bring into the State any intoxicating liquor without a certificate showing the consignee to be a permit-holder.

Furthermore, one amendatory section in the *Revision of 1860* amounted practically to the nullification of the principle of prohibition for it legalized the manufacture and sale of beer, cider, and wine.¹⁰³

The punishment for becoming intoxicated was a fine of ten dollars, the costs of prosecution, and imprisonment in jail for thirty days; but the offender could be discharged if he gave information of whom, when, and where he obtained the liquor which produced the intoxication.¹⁰³

In the hope of suppressing gambling, cities and towns were, in the *Revision of 1860*, empowered to restrain the operation of "billiard tables, nine or ten pin alleys, or tables and ball alleys, and to authorize the destruction of all instruments or devices used for purposes of gaming". As stated above they could regulate houses for public entertainment. Gambling and betting was punishable by a fine not exceeding \$100 or by imprisonment in jail for not longer than thirty days, instead of six months as formerly. The penalty for making a lottery, for advertising or selling lottery tickets, or for the possession of any such tickets was reduced from a maximum jail term of a year, a fine of \$1000 or both, to a jail term of thirty days, a fine of \$100 or both.¹⁰⁴

To the former penalty of \$100 fine for cruelty to animals there was added the optional punishment of thirty days in jail.¹⁰⁵

In the *Revision of 1860* there were no great changes in the law governing domestic relations. The eighth cause for divorce—that of failing to live in peace and happiness together—was removed. Desertion for a space of two years, instead of one year, was required before a divorce could be granted on that score. The marriage or re-marriage of divorced persons was made possible. Guardians of minors were compelled, on penalty of a fine of fifty dollars, to appear before the county judge annually and render an account of all money and other property in their possession belonging to such minors.¹⁰⁶

A law regulating adoption gave the privilege to any person competent to make a will, but consent first had to be obtained from one or both of the parents if they were living, and if not then from the mayor if the child lived in a city, or otherwise from the county judge. The instrument of adoption was to be acknowledged and recorded in the same manner as deeds. The relations of an adopted child and its foster parents were to be the same, including the right of inheritance, as those between parent and child of lawful birth. In case of maltreatment or neglect on the part of the foster parent an adopted child could be removed by an order of the court.¹⁰⁷

VI

SOCIAL LEGISLATION IN THE CODE OF 1873

The third codification of the laws of Iowa was made in 1873. During the interval between the adoption of the *Revision of 1860* and the *Code of 1873* the most outstanding feature of social legislation was the establishment of many of the charitable and penal institutions of the State. As governmental ministration of charity has developed the segregation of the various classes of dependents and defectives into special institutions has come to be the accepted mode of treatment. Institutions for the care of the blind, the deaf and dumb, the feeble-minded, and orphans are provided mainly for children and are largely educational in character; while the insane, the inebriates, the epileptics, and cripples are indebted to the State primarily for medical treatment. It was during this period that the principle of State care of defective and dependent classes in institutions became the settled policy of Iowa.

It was in connection with poor relief that a seemingly minor alteration portrayed significantly the change of the social attitude of the time. Persons other than white people were allowed to gain a settlement for the benefit of receiving public aid in time of need. In regard to the support of pauper

relatives the law made "grandparents" rather than the "grandfather" responsible. Likewise the property of a wife guilty of abandonment, as well as that of a father, mother, or husband, was subject to seizure by the county for the support of a poor person so abandoned.¹⁰⁸

There was but one other modification in the poor laws at this time. In townships embracing within their limits a city of the first or second class the county board of supervisors was permitted to appoint an overseer of the poor. Such city overseers, or the township trustees as the case might be, were allowed upon application, with the approval of the board of supervisors, to provide outdoor relief to poor persons within their jurisdiction to the amount of two dollars a week for each person, exclusive of medical attendance. The relief might be either in the form of food, rent, clothing, fuel, lights, medical attendance, or money. The funds for this relief were to be supplied from the county treasury, but the board of supervisors could limit the amount of relief thus afforded. In no case were the "widows or families of Iowa soldiers, or other persons in families requiring public relief" to be sent to the poor-house when they could and preferred to be relieved outside to the above extent.¹⁰⁹

Any of the several counties were authorized to provide soldiers' orphans' homes which were made necessary by the fatalities of the Civil War. These homes, with a superintendent directly in charge, were under the control of a State board composed

of one trustee from each county in which there was such a home and one from the State at large. The functions of the homes were chiefly educational in character. Ten dollars monthly for each child actually supported, together with the expenses of their transmission to the homes, was appropriated by the State for the support of such institutions, the number of children being determined by the average number of inmates during the previous month. The various boards of supervisors were authorized to levy a tax not exceeding one-half a mill on the dollar to constitute a "soldiers' county orphan fund" which should be used for the maintenance and education of destitute orphans. Assessors were to make enumerations of the orphans of deceased soldiers. Any child, with the approval of its parents or guardian, could be adopted by any citizen of the State, but the articles of adoption were subject to cancellation by the board of trustees. All children of proper age or those who themselves or through their mother had sufficient means of support could be discharged.¹¹⁰

The College for the Blind located at Vinton was, like all other State charitable and penal institutions at that time under the management of a local board of trustees, six in number, who appointed the principal, teachers, and other employees, fixed their salaries, and exercised general supervision. "All blind persons, residents of this state, of suitable age and capacity," were entitled to an education there. Non-residents were also admitted, if they could be

accommodated, upon the payment of forty dollars quarterly. Pupils were supplied with clothing but at their own expense if they were of age, and if not of age the account was charged to their parents or guardian, to be collected by the authorities of the proper county. For the ordinary and contingent expenses of the institution \$8000 was appropriated annually, and for current expenses not exceeding forty dollars quarterly for each resident pupil. A report by the principal to the Governor, including the number of pupils, with the name, age, sex, residence, place of nativity, and cause of blindness of each, the studies pursued, the trades taught, and a statement of all expenditures was required before each regular session of the General Assembly. In connection with the College for the Blind there was also an industrial home in which indigent blind persons — not of suitable age and capacity for education — could support themselves.¹¹¹

Almost identical with the College for the Blind in its organization was the Institution for the Deaf and Dumb at Council Bluffs. The school was under the complete control of a board of five trustees. The terms of admission were such that any citizen of the State who was deaf and dumb and of suitable age and capacity could be admitted free, and similarly qualified non-residents were allowed to enter, upon the payment of forty dollars quarterly. Each county superintendent of common schools in the State was required to report to the institution annually the name, age, and address of every deaf and dumb

person in his county between five and twenty-one years of age, including those too deaf to acquire an education in the ordinary schools. The superintendent of the school for the deaf and dumb reported to the Governor biennially the number of pupils, their name, age, sex, residence, place of nativity, cause of deafness, the studies pursued, the trades taught, and the financial status of the institution.

Expenses for clothing were to be met in the first instance by the institution and charged to the parents or to the inmate if he had reached his majority, and collected by the county of his residence, unless it were reliably shown that such a collection would work a hardship. The State held the county responsible, however, for the amount due. The ordinary expenses were met by an annual appropriation of \$12,000, while current expenses were covered by an appropriation of forty dollars a quarter for each pupil in the institution.¹¹²

Two State hospitals for the insane were provided for in the *Code of 1873*, one located at Mount Pleasant and the other at Independence.¹¹³ Each was operated under the direction of five trustees, two of whom might be women. Quarterly meetings were held and monthly visitation made either by the board itself or by a committee from the board. Another visiting committee of three members, appointed by the Governor, was to make monthly inspection of both hospitals and report annually to the Governor. It had full power to make a detailed inspection and to correct and punish all mistreatment of inmates —

thus proving itself to be a highly beneficial system.¹¹⁴

The law required biennial reports to be made to the Governor preceding regular sessions of the General Assembly. The local boards of trustees also appointed the officers of the hospitals and determined their salaries. Each hospital was under the immediate control of a superintendent who was required to be a physician of acknowledged skill and ability. The local treasurer drew money for current expenses from the State treasury, but not more than twenty dollars a month for each public patient, figured on the basis of the average number present on the fifteenth day of each preceding month. The chief duty of the steward was to make purchases of supplies and to superintend the farm in connection with the institution.

The time-honored arrangement of determining insanity by a jury was replaced at this time by a more equitable system. There was in every county a board of three commissioners of insanity, consisting of the clerk of the court, a physician, and a lawyer. They had "cognizance of all applications for admission to the hospital, or for the safe keeping otherwise of insane persons within their respective counties".

Upon the subject of admission it was provided that the application should be in the form of information certifying that the person was believed to be insane, was a fit subject for treatment in a State hospital, and was to be found in the county. Upon the receipt of such information the commissioners were

to make investigations, including testimony pro and con and an examination by a physician. If insane, a fit subject for treatment in a hospital, and of legal residence in their county, the commissioners were to commit such a person to the proper hospital,¹¹⁵ and the patient was conveyed there by the sheriff, his deputy, or a suitable relative or friend. When it was found that an insane person committed to a hospital had a legal residence in a county other than the one from which the commitment was made, that county was so notified.

Private patients not admitted to a hospital, but who were dangerous, were to be cared for and restrained by relatives or guardians, while public patients similarly situated were placed under the authority of the board of supervisors and confined in the poorhouse or, if there was none, in some suitable place or in the county jail. Insane persons who did not seek admittance to a State hospital were to receive similar treatment and custody within the county. If an insane person was suffering from want of care it was the duty of the commissioners of insanity to make all needful provisions and they could remove all private and public patients outside of a hospital for the insane to such an institution.

An insane person held in prison, charged but not yet indicted or convicted of a crime,¹¹⁶ was to be removed to a hospital after an investigation and kept there until his reason was restored. Should a convict become insane the Governor had power to order him removed to a hospital for the insane until his

reason was restored, after which he might be required to complete his term in prison.

In case it was necessary to discriminate in the reception of patients the same rule of preference obtained as was prescribed in the *Revision of 1860*.

The county where a patient had a legal residence was made immediately liable for his support and the board of supervisors was authorized to levy annually a tax for that purpose. Expenses incurred by one county on account of an insane person whose legal residence was in another, were to be refunded with interest by the county of his residence. Those having no legal residence in Iowa, or whose residence could not be ascertained, were to be supported by the State.

While provision was made for the support of the insane at public expense, that did not release their estates nor those of their relatives from liability, but the board of supervisors if they should deem it humane and proper, might relieve the estate or relatives from part or all of such liability. Friends or relatives were allowed to provide special care for patients and pay all or part of their expenses. A weekly sum not exceeding three dollars and twenty cents was charged for board and care.

It was provided that whenever cause for the treatment of a person for insanity in a State hospital should cease to exist such a person should be discharged, and suitable clothes and a sum of money not exceeding twenty dollars were to be furnished to him. Incurable and harmless patients might be

discharged at the request of relatives or in order to make room for more recent cases, but when that was done the commissioners of insanity in the county to which they were sent were to provide for them.

If a patient in a hospital for the insane were thought to be sane, a commission of three members, appointed by a judge of the district court, was to investigate, and upon its findings the judge was to decide whether or not the person should be released or remain in the hospital. The same person was not eligible for such proceedings oftener than once in six months. Persons confined as insane were entitled to the benefits of the writ of habeas corpus.

Anyone mistreating an insane person was declared to be guilty of a misdemeanor and liable for damages. If a patient in a hospital for the insane should die suddenly and mysteriously it was required that a coroner's inquest should be held.¹¹⁷ An escaped inmate of a hospital for the insane was to be located soon or the commissioners of insanity of the county in which such a person had residence were to be notified. If found in that county, the patient was to be returned or provided for otherwise by the commissioners.

Inmates were allowed to write to members of the State visiting committee, or to any other person, but their letters, with the exception of one each week, were subject to inspection. Letters coming to patients were to be delivered by the superintendent without inspection provided they had been forwarded by the visiting committee. But if any officer should

violate any of the provisions relating to letter-writing he became liable to a fine of not exceeding \$1000, imprisonment in the penitentiary for not over three years, or both the fine and imprisonment.

The provisions in the *Revision of 1860* which governed the appointment of guardians for idiots and lunatics were extended to include persons of "unsound mind", spendthrifts, and habitual drunkards incapable of managing their own affairs. The priority of claim to the custody of such a person was: first, the legally appointed guardian, then the husband or wife, next the parents, and finally the children.¹¹⁸

By no means the least significant measure of social reform in the laws relating to the treatment of criminals was the abolition in 1872 of capital punishment, the alternative of the death penalty being life imprisonment at hard labor. Bail, however, was still denied offenders guilty of treason and murder — the only two crimes ever punishable by death in Iowa.¹¹⁹

The law declaring it proper to keep prisoners confined in jail at hard labor was amended to the effect that only those convicts between the ages of sixteen and fifty could be so required to work. This labor was to be done on the highways, public grounds, or public buildings under the direction of the sheriff or marshal, according to whether the imprisonment was for the violation of a State statute or a city ordinance. Prisoners could not, however, be made to work more than eight hours a day and one dollar

and fifty cents a day was accredited to those against whom there was a judgment for fine and costs. The statute providing for the liberation at the end of thirty days of any poor persons imprisoned until a fine was paid was abrogated in cases where the judgment could be satisfied by the labor of such persons. Should a prisoner try to escape while at work he could be placed in solitary confinement and while there the time was not considered a part of that for which he was sentenced. But for cruel treatment of prisoners, officers or those in charge could be punished by a fine of not exceeding \$1000, imprisonment in jail for not over a year, or both; while anyone who insisted upon insulting prisoners at labor could be fined not more than ten dollars or imprisoned not longer than three days.¹²⁰

The *Code of 1873* increased the penalty for officers who voluntarily permitted the escape of one charged or convicted of any public offense other than a felony from a fine of \$500, imprisonment in jail for a year, or both, to one involving both fine and imprisonment — the fine not exceeding \$1000 and the term of imprisonment not exceeding five years in the penitentiary. The same penalty was attached to the offense of aiding a prisoner to escape from an officer. Incidental to the abolition of capital punishment life imprisonment became the rule in the case of the major felonies, but the penalty for allowing prisoners charged or convicted of such a crime to escape remained the same.¹²¹

It was the Fourteenth General Assembly in 1872

that established the second penitentiary in Iowa, "at or near the stone quarries near Anamosa". Convict labor was to be used in the erection of the new plant; and provision was made that for every hundred dollars worth of labor performed in excess of three hundred dollars during a year the convict's sentence should be reduced fifty days, and that there should be paid to the convict upon his discharge one-third of the excess thus earned.¹²²

In the administration of the penitentiary and the treatment of convicts no momentous changes were effected. Provision was made for the employment of a prison physician and a steward. Not more than one guard for every ten convicts at the Fort Madison penitentiary were to be appointed, but the number was never to be less than thirteen. When the penitentiary at Anamosa was opened the ratio of guards and prisoners there was made one to eight. Convicts upon release were to be furnished transportation to the point in the State nearest their home or friends, a suit of common clothing, and a sum of money between three and five dollars. There was a change in the salaries of most of the officers; while the sum of eight and one-third dollars a month was appropriated for the general support of each convict, but this allowance was subject to the deduction of the amount charged to the contractors of convict labor for that month.¹²³

The pardoning power of the Governor was somewhat restrained at this time by the stipulation that before a pardon could be granted in the case of a

person convicted of murder in the first degree the Governor was obliged to act upon the advice of the General Assembly, and before he could present such a proposition to that body he was required to publish his reasons for granting the pardon in a paper published in Des Moines and one published in the county where the conviction was had, for four consecutive weeks, the last issue appearing twenty days before the General Assembly convened.¹²⁴

In accord with the accepted doctrine that juvenile offenders should be reformed and not condemned to the hopeless existence of adult criminals, the *Code of 1873* records the establishment of the Reform School at Eldora to be maintained for the reformation of boys and girls under eighteen years of age. In this institution delinquent children were to be "instructed in piety and morality, and in such branches of useful knowledge as are adapted to their age and capacity, and in some regular course of labor, either mechanical, manufacturing, or agricultural, as is best suited to their age, strength, disposition, and capacity, and as may seem best adapted to secure the reformation and future benefit of the boys and girls."¹²⁵

The government of the Reform School and the appointment and removal of officers was in the hands of a board of five trustees. They were to visit the institution once a month and report to the General Assembly every two years. The superintendent also was required to report. He was in immediate control of the institution, and it was his duty to keep

the books and records of the institution, to "discipline, govern, instruct, employ, and use his best endeavors to reform the inmates in such manner as, while preserving their health, will secure the promotion, as far as possible, of moral, religious, and industrious habits, and regular thorough progress and improvement in their studies, trades, and employment." The superintendent was required to give bond for the faithful performance of his duties.¹²⁶

Any children under eighteen years of age could be committed, until they arrived at their "majority", by any court of record if the crime did not consist of murder. If, however, the child was thought to be an unfit subject for the school or if he should appeal from the decision of confinement, the judge was to return such a child to the magistrate, to be dealt with according to law.¹²⁷ The exigency of a parent or guardian complaining that a child was vagrant, disorderly, or incorrigible was met by permitting the court, with the consent of the parent, to order such a child, if innocent of crime, to be sent to the Reform School until he or she should attain the age of majority, but the parent or guardian could be compelled to guarantee the payment of the expenses of the trial, transportation to the Reform School, and support there.¹²⁸

The board of trustees had power to bind out boys and girls, with the consent of the parents or guardian, by written indenture for any length of time not extending beyond majority. Careful watch was to be kept and if the obligations were not faithfully ob-

served the indenture could be cancelled and the child returned to the school. Boys and girls could not be discharged until they had been at the school a year, but at any time after that they might be released upon satisfactory evidence of reformation. When bound out or released the boy or girl was completely free from the penalties of the offense for which the commitment was made. If a child kept at the school on account of having committed a crime should prove unruly, incorrigible, or detrimental, the board of trustees could return the child to the county from which he or she came, where proceedings were to be resumed as though commitment had never been made. In regard to escape the *Code of 1873* simply provided that whoever aided any inmate to escape or to attempt escape or knowingly concealed an inmate after escape was to be punished by a fine not exceeding \$1000 and imprisonment in the penitentiary for not exceeding five years.¹²⁹

The arrangement whereby courts had power to apprentice vagrants who were minors and contract with suitable persons for the services of vagrants of full age was omitted in the *Code of 1873*, only the jail sentence for a maximum of six months remaining.¹³⁰

There were, in the *Code of 1873*, some new features in the legislation affecting laborers. A wife was legally permitted to receive the wages for her personal labor, "maintain an action therefor in her own name, and hold the same in her own right". A few technical changes were effected in the law of

mechanics' liens. Counties in which the industry of mining was pursued were required to appoint inspectors of such works whose chief line of activity was to secure standard systems of ventilation and to see that there were sufficient means of exit in case of accidents. As an assurance that the recommendations of these inspectors would be carried out, owners and operators failing to comply were made liable for full damages to any employees injured as a result of such neglect. The inspectors, however, had no authority to enter and examine a mine until they had received a written invitation from the owners, operators, or employees to that effect. Furthermore, their compensation came from the mine-owners or operators except when in the judgment of the inspector the employees had petitioned for an unnecessary inspection.¹⁸¹

The only method by which an injured workman might claim indemnity at this time was through an appeal to the courts under the Common Law of employers' liability. This is simply a branch of the law of torts and is based on the question of fault, or personal responsibility for personal wrong. If no one was to blame or the employer had exercised ordinary care damages could not be recovered.

But as time has passed and new circumstances have arisen the fundamental doctrine has been modified by imposing new duties upon the employer (as in the instance of the mine-owners and operators noted just above), by the theory of occupational risks, the fellow servant rule, contributory negligence, and

the doctrine of the assumption of risk. The first change in the law of employers' liability in Iowa was in regard to the fellow servant rule — that an employer can not be held accountable to one workman for the negligent acts or omissions of another who is engaged in the same employment — as it applied to railroads. This modification reads as follows:

Every corporation operating a railway shall be liable for all damages sustained by any person, including employes of such corporation, in consequence of the neglect of agents, or by any mismanagement of the engineers or other employes of the corporation, and in consequence of the wilful wrongs, whether of commission or omission of such agents, engineers, or other employes, when such wrongs are in any manner connected with the use and operation of any railway, on or about which they shall be employed, and no contract which restricts such liability shall be legal or binding.¹²²

The work of preserving the public health was entirely in the control of localities. While cities had previously been authorized to maintain boards of health it was not until 1866 that the mayor and council of incorporated cities and towns and the township trustees were constituted a board for the "protection of the public health, and respecting nuisances, sources of filth, and causes of sickness within their respective townships", but their jurisdiction did not extend to any city situated therein. The regulations adopted by local boards — for city and town boards of health were vested with the same powers and duties — were to be published in some local newspaper, if there was one, or posted in five

public places. Any persons necessary to carry into effect the regulations adopted, including physicians in case of poverty, could be employed. Anyone refusing to remove a nuisance, source of filth, or cause of sickness could be fined a sum not exceeding twenty-five dollars for every day he allowed it to remain after the time designated for its removal, and in case a person wilfully violated any of the rules made by the township trustees such a person was deemed guilty of a misdemeanor and subject to a fine not exceeding \$100 or imprisonment for not longer than thirty days. Expenses were paid by the town, city, or township, the method of obtaining funds for that purpose in townships being a tax levy.¹²³

Often contagion becomes prevalent through diseased animals and steps have been taken to minimize this danger. The *Code of 1873* fixed a penalty of from \$50 to \$100 fine for bringing diseased sheep into the State, selling them, or allowing them to run at large. In the case of horses or mules the fine was from \$50 to \$500, and in default of payment the offender could be imprisoned for a year in the county jail, or both fined and imprisoned. A fine not exceeding \$1000 or imprisonment in jail for a period of not over thirty days was the penalty for bringing Texas cattle into the State, although it was not unlawful to transport them on the railway, drive them through, or have them in possession between November and April or if they had wintered north of the southern boundary of Missouri or Kansas. Any person who violated this law and thereby caused the

spread of Texas fever by allowing his Texas cattle to run at large was also liable for damages. Horses, mules, or asses diseased with nasal gleet, glanders, or button-farcey, which were found running at large without any known owner, could be killed. Anyone throwing a dead animal into a "river, well, spring, cistern, reservoir, stream, or pond" was to be fined not less than five nor more than one hundred dollars or put in jail for not less than ten nor more than thirty days.¹⁸⁴

For selling adulterated milk, skimmed milk, milk from which "strippings" had been withheld, or that from diseased animals, a person was subject to being fined from \$25 to \$100 and became liable for double damages. The same penalty obtained in the case of any poisonous or deleterious material being used in the manufacture of cheese or butter.¹⁸⁵

As measures of public safety cities and towns were empowered to repair sidewalks without notice to the property-owner. Racing and fast driving was made a misdemeanor not only upon city streets but on any portion of the public highway, the penalty imposed being a maximum fine of \$100 or not more than thirty days in jail. The speed of trains running through a city or town could be limited.¹⁸⁶

It was required that a record of the sale of poisons should be kept and that none should be sold except that the purchaser be known or identified. The penalty for violation was a fine of not exceeding \$100 or imprisonment in jail for not more than thirty days.¹⁸⁷

The penalties fixed for mixing illuminating oils and naphtha or selling for illuminating purposes any petroleum product inflammable at a temperature less than 110 degrees Fahrenheit were, for the first offense a maximum of \$100 fine or thirty days in jail, and for subsequent misdemeanors a fine of from \$100 to \$1000, imprisonment of from thirty days to a year, or both.¹³⁸

Persons so negligent as to operate a threshing machine without the tumbling rods being boxed were guilty of a misdemeanor and liable to a fine of from ten dollars to fifty dollars for every day the outfit was operated in such a condition.¹³⁹

As has already been noted the moral sense of the public at this time demanded the departure from the custom of capital punishment, thereby changing the penalty in case of treason and murder of the first degree to life imprisonment. Another measure presumed to protect the lives and persons of individuals prohibited the carrying of concealed weapons on penalty of not over \$100 fine or thirty days in jail.

Not only were worshiping congregations protected from disturbances but schools, school meetings, teachers' institutes, lyceums, literary societies, and other lawful assemblies were also placed within the scope of the statute. Cities and towns were empowered to tax taverns and houses of public entertainment.¹⁴⁰

It was no longer permissible to sell or give intoxicating liquor to minors or inebriates any more than to intoxicated persons and Indians, the punishment

for so doing being \$100 fine; while anyone who, by the manufacture or sale of intoxicating liquor, caused the intoxication of a person, was declared to be liable to pay for the care of that person and one dollar a day in addition for every day he was kept on account of such intoxication. A wife, parent, child, guardian, employer, or other person injured could take action and recover damages from the one who sold intoxicating liquors to another, contrary to law. Intoxicating liquor could not be sold within three miles of the agricultural college and farm, except "for sacramental, mechanical, medical, or culinary purposes" on penalty of a fine of not more than fifty dollars, imprisonment for not over thirty days, or both. Furthermore, the sale of intoxicating liquor within one hundred and sixty rods of a county or agricultural society fair was prohibited and the authorities could seize and destroy any such liquor. There were also several technical changes in the liquor law, among which the change in the method of securing a permit to sell liquor for purposes other than as a beverage was of prime importance. The certificate as to the character of the applicant had to be signed by a majority of the electors in the township, town, or ward and the bond was increased from \$1000 to \$3000. The permit expired at the end of one year. Profits were limited to thirty-three percent on the cost price.¹⁴¹

The only new legislative check placed on gambling by the *Code of 1873* was in respect to operating and practicing such devices at fairs. Horse-racing and

nuisances, as well as gambling, were also prohibited.¹⁴²

The former laws preventing cruelty to animals were extended and made more explicit. If any person were to torture, torment, starve, mutilate, overdrive, cruelly beat or cruelly kill, fail to provide shelter, abandon, or work any animal when it was unfit, he might be put in jail for not over thirty days or be fined not exceeding \$100. Railroads when transporting live stock were not allowed to confine such stock in cars longer than twenty-eight consecutive hours without unloading for rest, food, and water for a period of five hours, unless there was an accidental delay of the train or unless there was room in the car for rest, food, and water. For violation a fine of from \$100 to \$500 could be exacted. Keeping or using a place for, or abetting or assisting in any bull, bear, dog, or cock fight, or a fight between any creatures, constituted a misdemeanor, as did also the confinement of any animal without food and water.¹⁴³

The legislation affecting domestic relations between 1860 and 1873 was of more or less insignificant character. The district court where either party to divorce proceedings resided (formerly it was where the plaintiff had residence) had jurisdiction. Impotency and bigamy were no longer causes for divorce but became, along with insanity or idiocy and unlawful marriage, grounds for the nullification of a marriage. Other rules in connection with annulling marriages dealt with the legitimacy of the chil-

dren under various circumstances: the cause of impotency or consanguinity making them illegitimate, and non-age, insanity, or idiocy legitimate; but when prior marriage was the cause children born before the marriage was annulled became the legitimate issue of the parent who had been legally capable of marriage. Provision was made for guardians of non-resident minors.¹⁴⁴

VII

SOCIAL LEGISLATION IN THE CODE OF 1897 AFFECTING PARTICULAR CLASSES

Almost a quarter of a century elapsed before there was another official codification of Iowa laws. The *Code of 1897*, which forms the basis for the present law and procedure in the State, shows marked progress in social legislation. Although in some phases there was but little modification of the law as it appeared in the *Code of 1873*, in respect to other social problems whole new chapters were added. Indeed, the period between the codes of 1873 and 1897 has been surpassed in the enactment of social legislation only by the years subsequent to 1897.

LEGISLATION CONCERNING DEPENDENTS

To the poor laws of Iowa the *Code of 1897* added but little new legislation. "Poor persons" in Iowa are now "construed to mean those who have no property, exempt or otherwise, and are unable, because of physical or mental disabilities, to earn a living by labor;" but "aid to needy persons who have some means, when the board [of supervisors] shall be of opinion that the same will be conducive to their welfare and the best interests of the public" is not forbidden. A county may recover any money spent in relief or support from poor persons themselves

should they become able, as well as from their relatives, as the previous laws had provided. In payment for any outdoor relief any able-bodied person may be required to work on the streets or highways at the rate of five cents an hour. The establishment of a county home needs to be approved by a vote of the people only when the estimated cost of it exceeds \$5000. Medical attendance as well as other support of poor people may be contracted for. The education of poor children cared for in a county home is provided in the district school and the expense considered a part of the support of the home.¹⁴⁵

When gifts and bequests are received and held by a county, city, town, or other municipality for the establishment of benevolent institutions, and there is no provision for the execution of the trust, three trustees, residents of the county, are appointed by the county probate court to have charge and control.¹⁴⁶

After the close of the Civil War most of the States found it necessary to provide homes for the old soldiers and sailors who had been left without the means of self-support. It was in 1886 that provision was made for the care of indigent soldiers and sailors in Iowa by the establishment of a home at Marshalltown.¹⁴⁷ This act was supplemented and amended in the succeeding years so that by 1897 the Code contained provisions relative to a home for "dependent honorably discharged Union soldiers, sailors and marines, their dependent widows, wives

and mothers, and dependent army nurses'' to be under the management and control of five trustees who had served in the Union army or navy. They were appointed by the Governor for five years, none of them were to be members of the General Assembly, no two from the same Congressional District, and not more than three from the same political party. The compensation was four dollars a day for the time actually employed and five cents a mile each way was allowed for traveling expenses. Each member gave a bond of \$10,000 to the State. Three members constituted a quorum but the adoption of plans and the letting of contracts for buildings or the selection of a commandant for the institution required an affirmative vote of a majority of members of the board. The trustees were to meet quarterly, elect officers annually, make and enforce regulations, and report concerning the condition of the home.¹⁴⁸ This system prevailed until the establishment of the State Board of Control for charitable, reformatory, and penal institutions.

To be admitted to the Iowa Soldiers' Home under the law as found in the Code one must have served in the Iowa regiments or batteries, or have been accredited to Iowa, or have resided in the State three years next preceding the date of his application. His wife might be admitted with him, if married before 1885. Eligible army nurses, mothers, and widows could be admitted, supported, and maintained, receiving the same allowance as other inmates of the home. A person leaving the home, dis-

charged therefrom, or adjudged to be insane was declared to have residence in the county from which he gained admission.¹⁴⁹

A commandant, qualified by possessing an honorable discharge from the United States army or navy, was appointed by the board of trustees. His salary was not to exceed \$1800, besides which he was entitled to the free occupancy of a house provided with lights, fuel, and water. The commandant was empowered to appoint and remove a similarly qualified adjutant, quartermaster, and surgeon; and also a matron and such other necessary subordinate employees, but the board fixed their salaries. No officer was permitted to be interested in any contracts in connection with the home and on conviction of such a practice could be fined as much as \$5000.¹⁵⁰

For the salaries and wages of those connected with the home, \$13,000 was annually appropriated out of money in the State Treasury, as were also the funds for general support, the cost of which was estimated according to the average number of inmates for the preceding quarter, but not exceeding ten dollars a month for each member. Appropriations were to be drawn monthly by the board of trustees.¹⁵¹

The *Code of 1897* also provided for a tax of one-half mill on the dollar on all taxable property in the county, to constitute a fund for the relief and burial expenses of "honorably discharged, indigent Union soldiers, sailors and marines, and their indigent wives, widows, and minor children not over fourteen years of age, if boys, nor over sixteen years, if girls,

having a legal residence in the county." The disbursement of the fund was placed in the hands of the soldiers' relief commission, which consisted of three persons, two of them honorably discharged Union soldiers, sailors, or marines. They were appointed by the board of supervisors.

It was further required that the board of supervisors appoint a person in each township whose duty it was to cause any indigent, honorably discharged soldier, sailor, or marine, who had served in the United States army or navy during the Civil War, to be decently buried, and to see that a headstone was erected. The county bore the expense of the burial and the headstone which was not to exceed thirty-five and fifteen dollars respectively.¹⁵²

The exemption from taxation of the property of soldiers and sailors is in a sense social legislation in that it affects a certain class of people. Under the *Code of 1897* any homestead not exceeding \$800 in value belonging to the widow of a Union soldier or sailor in the Civil War, or belonging to the soldier or sailor himself if he were dependent on it for support and incapable of manual labor, was exempt from taxation, but the value of any other real estate owned by him was deducted from such exemption.¹⁵³

A significant feature to be noted in connection with the legislation in the *Code of 1897* affecting dependents, from the standpoint of the development of centralized control of charitable institutions, was the abandonment of the system of county orphans' homes in favor of a State home. The Orphans' Home

and Home for Destitute Children was located at Davenport.¹⁵⁴ A board of three trustees was provided in the *Code of 1897* for its management and control; but, as in the case of other State institutions, this governing body was superseded the following year by the Board of Control. A superintendent, either a man or a woman, was placed in charge of the home. All children of resident soldiers or orphans of soldiers under fifteen years of age who were destitute or unable to care for themselves were eligible for admission, and such others, destitute and of like age and having a legal settlement in the State, could be admitted upon approved application so long as none of the former class were denied admission. They were under the complete authority of the superintendent and had to be discharged at the age of fifteen. A common school education was provided. Furthermore, regular employment was furnished, the profits from which were placed at interest and each inmate paid, when discharged, in proportion to the labor he or she had performed.

Any child, with the approval of its parents or guardian, could be adopted by any citizen of the State, but the articles of adoption were subject to cancellation by the board of trustees. Ten dollars monthly for each child actually supported, together with the expense of their transmission to the home, was appropriated for the support of the institution, the number of children to be determined by the average number during the previous month. Counties

were made liable for the support of their destitute children cared for in the State home, and partly to that end provision was made for the continuation of the former levy of a tax of not exceeding one-half mill on the dollar to constitute a "county orphan fund", which should be used for the maintenance and education of destitute orphans. The enumeration of orphans of deceased soldiers by assessors was also still required.¹⁵⁵

The laws in the *Code of 1897* regarding the care of children in homes for the friendless were passed by the Seventeenth General Assembly (1878). Incorporated homes for the friendless could receive, control, and dispose of minor children, and act as their legal guardian. Children were surrendered through the mayor, a judge of a court of record, or a justice of the peace. Girls under fourteen and boys under twelve could be arrested and committed to such homes if complaint were filed that a child had been abandoned or neglected, or that the parents were dead, drunkards, or in prison for crime. Religious instruction was to be given in the faith of the parents, and if children were placed out it was to be with families of that faith also.¹⁵⁶

LEGISLATION CONCERNING DEFECTIVES

Although the adult blind persons are now at the mercy of private charity in Iowa, during the period between 1892 and 1900 an Industrial Home for the Blind was maintained at Knoxville, for the instruction of these unfortunates in some trade or vocation

and to serve as a working home for any blind person who knew a trade or vocation and was physically and mentally able to perform the labor required. Every indigent blind person with a legal residence in the State could be admitted. A board of three trustees, one of whom was a woman, had complete control of the institution — appointing officers, fixing salaries, regulating the labor of the inmates, the price they were to pay for board and maintenance, the sale of the products manufactured, and the expenditure of appropriations.¹⁵⁷

In connection with the College for the Blind the number of trustees had been reduced from six to five, tuition for non-resident pupils was raised from forty to fifty-four dollars a quarter, and the appropriation of \$8000 annually for contingent expenses was increased to \$10,000.¹⁵⁸

The School for the Deaf and Dumb — for so it was called in the *Code of 1897* in preference to the term Institution — likewise was subject to a few new regulations. Here the board of trustees was reduced to three members. The terms for admission specified that those otherwise eligible who were “so deaf as to be unable to acquire an education in the common schools” were also to be admitted free. Expenses of transportation of pupils as well as for clothing were to be met in the first instance by the school, while the appropriation of \$12,000 annually for general support and ordinary expenses was increased to \$21,000 for salaries, and the former quarterly sum

of forty dollars for each student was reduced to thirty-five dollars, the total amount being based on the average attendance for the last preceding quarter of the school session and made to cover all current and ordinary expenses.¹⁵⁹

It is estimated that the number of feeble-minded people in this country is about equal to the number of insane persons, and fully one-half of them ought to be under public care, not only for their own happiness and comfort but also for the protection of the community at large. The first public provision for the feeble-minded was an attempt to develop by skillful training the imperfect mental faculties of the children and the first institution was founded in Massachusetts in 1848.¹⁶⁰

The State Institution for Feeble-minded Children at Glenwood is, as the title indicates, maintained for the purpose of training, instructing, caring for, and supporting feeble-minded children. It was operated, before the creation of the Board of Control, under the direction of a board of three trustees. Any person between the ages of five and twenty-one so intellectually deficient as to be unable to secure an education in the common schools was entitled to receive physical and mental training there at State expense, and it was the duty of county superintendents to report any such cases annually to the superintendent of the institution. Application for admission could be made by the child's father, mother, or guardian, or by the board of supervisors or the coun-

ty attorney, and if a feeble-minded child had no parents or guardian in Iowa, and was not comfortably provided for, it became the duty of the board of supervisors or the county attorney to apply for the admission of such a child.

Should it be necessary to furnish clothing and transportation to a pupil, the account was charged to the county of his residence, after having been paid in the first instance by the State, and the county could then collect from the inmate, from his parents, or from his guardian, unless it should be shown by three disinterested persons of the county that the account ought not to be collected from them. When it was thus shown, the county paid the bill.

For the maintenance of the institution ten dollars a month for each inmate supported by the State based on the average number for the previous month, was appropriated, together with \$22,000 annually for equipment, employees, and general expenses.

Idiotic children were considered eligible for admission and a special custodial department was provided for those who could not be benefited by educational training. Any inmate could be returned to his parents or guardian at any time by the board of trustees.¹⁶¹

Such was the law as found in the *Code of 1897* and aside from the managerial changes effected by the advent of the State Board of Control,¹⁶² the status of the Institution for Feeble-minded Children is practically the same to-day.

SOCIAL LEGISLATION IN CODE OF 1897 101

As the idea of medical treatment for insane people has developed insane asylums have been converted into hospitals the country over, with the result that there has been a great increase in the number of inmates and a multiplication of the number of institutions. Four State hospitals for the insane were provided for in the *Code of 1897*. At the same time, although private and county care of the insane was regulated by statute as formerly, the State exercised no responsibility for the care of this class of defectives at the hands of counties and private institutions. The new State hospitals were located at Clarinda and Cherokee. The monthly allowance for support had by 1897 been reduced from twenty to fourteen dollars for each inmate. A new qualification of superintendents imposed in the *Code of 1897* was that they be authorized to practice medicine in Iowa.¹⁶³

An appeal from the findings of the commissioners of insanity could be had to the district court, and pending such an appeal the person could not be held in custody, unless it should be dangerous to public safety to allow him to be at large. In such a case the treatment was identical with that afforded any patient outside of a State hospital: private patients might be cared for by relatives or friends and public patients placed in the county home, or, if no more suitable place could be found, the county jail. The *Code of 1897* prescribed the maximum penalty of \$500 fine, imprisonment in jail for three months, or both, for anyone who mistreated an insane person.¹⁶⁴

A county tax not exceeding one-half a mill could be levied for the "county insane fund". This was to be used for the support of insane people outside of State hospitals.¹⁶⁵

Guardians of idiots, drunkards, and spendthrifts were allowed to mortgage the property of their wards on proper occasions as well as to sell it. Sufficient property could also be set aside for the wife and children under fifteen years of age, or either, to support them for a year from the time when the husband and father became insane. After six months the person under guardianship might apply for its termination by petitioning the court, and if the trial resulted unfavorably another petition could not be filed for four months.¹⁶⁶

LEGISLATION CONCERNING DELINQUENTS

Capital punishment was restored in Iowa in 1878. An act was passed by the Seventeenth General Assembly declaring that first degree murder should be punished by death or imprisonment for life, the designation to be made by the jury in its verdict. According to the *Code of 1897* all offenders are bailable except those convicted of murder or charged with treason. But since 1902 bail has been refused only in case of conviction of treason or murder in the first degree.¹⁶⁷

In cities of 25,000 or over the *Code of 1897* required the mayor to appoint two or more police matrons for each station-house where women and children were detained. If there were suitable build-

ings or jails, minors under eighteen years of age, unless they exerted an immoral influence, were to be kept apart from the other prisoners. All jails must have separate apartments for females.¹⁶⁸

The penitentiaries were at this time still under the general supervision of the Governor, but the Executive Council had authority over some matters. Wardens were allowed to appoint a matron for the women's department—for women might then be placed in either of the State prisons. The department for the incarceration of the criminally insane was established at Anamosa in 1888. Later an assistant deputy warden was placed in charge. Being appointed by him, all officers could be discharged at any time by the warden.¹⁶⁹

The *Code of 1897* provided an elaborate scale for the diminution of sentences on the basis of good conduct, covering any term up to twenty-five years. It is possible thereby to earn one month the first year and one additional month each year for the first six years, and after that time six months constitute the maximum reduction of term that can be earned out of every year. In this way a twenty-five year sentence can be reduced to thirteen years and nine months. But any convict who violates any of the prison rules forfeits for the first offense two days of his "good time", for the second four days, for the third eight days, for the fourth sixteen days and in addition "whatever number of days more than one that he is in punishment". For more than four of-

fenses, an escape, or an attempt to escape all the "good time" already earned may be taken away. When a convict is committed under several separate sentences for several convictions they are considered as one in granting or forfeiting "good time". Time spent in solitary confinement for the violation of rules and regulations is not figured as part of the term of commitment. If the conduct of the prisoner while in the penitentiary warrants it, the Governor may restore to him all his rights of citizenship.¹⁷⁰

At Fort Madison convict labor could be contracted out by the warden with the consent of the Executive Council for periods not exceeding ten years. At Anamosa, however, contract labor was prohibited and instead the prisoners were employed by the State in the stone quarries.¹⁷¹ Able-bodied male persons could be taken to Anamosa and there employed in the stone quarries and on construction work about the prison. When not otherwise employed the prisoners were to be set to work with hammers breaking refuse stone into pieces not more than two and one-half inches in diameter, and such stone was furnished free, except for transportation charges, to local authorities for use in the improvement of streets and highways.¹⁷²

In accord with the general arrangement which prevailed in other States, a separate department of the Iowa Reform School for girls was established at Mitchellville in 1880 — thus really making two State institutions for the reform of delinquent children.

SOCIAL LEGISLATION IN CODE OF 1897 105

To the original functions of the Industrial School had been added by 1897 the requirement of teaching the effects of alcoholic drinks, stimulants, and narcotics. In place of the provision allowing any child under eighteen years of age to be committed to the school was one restricting the attendance to those between seven and sixteen years of age. Children in the school could be bound out only for the length of their term of commitment. The *Code of 1897* provided for the parole of children on satisfactory evidence of reformation. The penalty for aiding an inmate to escape was changed from a maximum fine of \$1000 and imprisonment in the penitentiary not longer than five years to such a fine or imprisonment. In 1897 the Industrial School was allowed ten dollars a month for each boy and eleven dollars a month for each girl actually supported, the total amount being based on the average number of inmates for each month.¹⁷³

It was the Twenty-third General Assembly in 1890 which designated a particular class of vagrants known as tramps as being particularly undesirable and special provisions were made concerning them. "Any male person sixteen years of age or over, physically able to perform manual labor, who is wandering about, practicing common begging, or having no visible calling or business to maintain himself, and is unable to show reasonable efforts in good faith to secure employment, is a tramp".

Such a person is to be punished by imprisonment

in the county jail: if at hard labor, for ten days, and if in solitary confinement, for five days. Should a tramp refuse to work, however, he may be placed in solitary confinement for ten days or until his term expires. During that time he is to be fed on bread and water. The use by an imprisoned tramp of any tobacco, intoxicating liquors, sporting or illustrated newspapers, cards, or other articles of amusement or pastime is forbidden. Any intimidation or other misconduct on the part of a tramp, for which no greater punishment is provided, is regarded as a misdemeanor. Tramps assembling or congregating together are tried jointly.¹⁷⁴

In connection with the definition of a vagrant the *Code of 1897* omitted the clause "all persons who tell fortunes or where lost or stolen goods may be found". A provision was added that necessary care of the sick and disabled and one night's lodging for apparently deserving persons could be furnished by the board of supervisors.¹⁷⁵

LEGISLATION AFFECTING LABORERS

For the purpose of collecting, assorting, and systematizing statistical details "relating to all departments of labor in the state, especially in its relations to the commercial, social, educational and sanitary conditions of the working classes, and to the permanent prosperity of the mechanical, manufacturing and productive industries of the state", there was established by the Twentieth General Assembly in 1884 a Bureau of Labor Statistics under the control

of a Commissioner.¹⁷⁶ This Commissioner is appointed biennially by the Governor.¹⁷⁷ Until 1907 his salary was fixed at \$1500 annually, but in that year it was raised to \$1800.¹⁷⁸ He was allowed to employ a deputy who occupied the position of clerk.¹⁷⁹

In 1897 the duties of the Commissioner of Labor Statistics were entirely statistical in character. His reports were to include "the amount and condition of the mechanical and manufacturing interests, the value and location of the various manufacturing and coal productions of the state, also sites offering natural or acquired advantages for the profitable location and operation of different branches of industry". He was also to compile "such information as may be considered of value to the industrial interests of the state, the number of laborers and mechanics employed, the number of apprentices in each trade, with the nativity of such laborers, mechanics' and apprentices' wages earned, the savings from the same, with age and sex of laborers employed, the number and character of accidents, the sanitary condition of institutions where labor is employed, the restrictions, if any, which are put upon apprentices when indentured, the proportion of married laborers and mechanics who live in rented houses, with the average annual rental, and the value of property owned by laborers and mechanics", and to report the progress and methods of the schools of mechanic arts.¹⁸⁰

This information was to be secured either by cor-

respondence, by the testimony of witnesses, or by actual inspection. It was the duty of every "owner, operator or manager" of an establishment employing labor to report to the Commissioner when requested to do so. Blank forms were furnished and failure to comply within sixty days was punishable by the penalty of a \$100 fine or thirty days imprisonment in the county jail. The Commissioner could compel witnesses to appear and testify, but not outside of their own county. For refusing to do so there was imposed a fine of fifty dollars or imprisonment in the county jail for not over thirty days. The expenses of such witnesses was not to exceed \$100 a year and were paid from the contingent fund of the Bureau. According to the law the Commissioner had power to enter and personally inspect a place only when requested in writing to do so or when two or more persons should make a complaint. To hinder such inspection constituted a misdemeanor punishable by a fine of not exceeding \$100 or by imprisonment for not longer than thirty days. The information secured in any way was considered strictly confidential and it was made a misdemeanor to publish the names of any individuals or firms. Only those factories, mills, workshops, mines, stores, business houses, or public or private works which employ "five or more wage-earners . . . for a certain stipulated compensation" came within the cognizance of the Bureau of Labor Statistics.¹⁸¹

In order to protect the laborer, who is ordinarily

weaker than his debtor or creditor and to whom the suspension of daily wages would entail privation, laws have from time to time been passed strengthening the guarantees of prompt payment.¹⁸² A special regulation in the *Code of 1897* required that the wages of miners should be "paid in money upon demand semimonthly". After five days following a demand for wages a miner may collect a dollar for each additional day the payment is deferred or refused up to a sum equal to the amount owed and a reasonable attorney's fee. Since most of the coal mining is paid for by weight, provision is made for standard scales subject to examination by the State Mine Inspectors, for a check-weighman appointed and paid by the miners, and for a weighmaster who is under oath to keep the scales correctly balanced, to weigh accurately, and to record a correct account of the weight of each miner's car of coal. No payment was to be made for any sulphur, rock, slate, black-jack, slack, dirt, or other impurities. Since 1900, however, no weight has been subtracted on account of the presence of slack in coal.¹⁸³

The accidental injury of employees at their work is the cause for an important phase of legislation that affects laborers. Lives sacrificed in industry are sacrificed in the public service no less than are the lives laid down on the battle field, and justice demands that the lives so jeopardized shall be protected by means of every reasonable safeguard. Both preventive and remedial laws have been passed in

this connection. The former are largely concerned with the inspection of certain hazardous industries, prescribing safety devices, and providing means of escape and protection in case of fire. The latter aim to guarantee to a workman injured in the course of duty some reparation for his economic loss.

The only provisions in the *Code of 1897* concerning safety appliances in factories relate to steam boilers, which were required to be equipped with a steam gauge, safety valve, and water gauge. The penalty for neglect to supply these accessories was a fine of from \$50 to \$500. Cities and towns were empowered to provide for the inspection of steam boilers. Another factory regulation — although a health rather than a safety measure — compelled employers of females in mercantile and manufacturing occupations to maintain "suitable seats, when practicable, for the use of such female employes, at or beside the counter or work-bench where employed, and permit the use thereof by such employes to such extent as the work engaged in may reasonably admit of." Neglect or refusal to comply with this regulation was to be punished by a fine of not more than ten dollars.¹⁸⁴

By far the greatest amount of legislation guaranteeing the safety of laborers has been in connection with the superhazardous industry of mining. The law as found in the *Code of 1897* provides that the Governor shall appoint three State Mine Inspectors from among the candidates nominated by the Board of Examiners of Mine Inspectors, a body composed

of two practical miners, two mine operators, and one mining engineer. Besides being able to pass the oral and written examinations of the examining board, candidates for the position of Mine Inspector were required to possess the further qualifications of being "twenty-five years of age or over, of good moral character, citizens of the state, and with at least five years' experience in the practical working of mines, and who have not been acting as agent or superintendent of any mines for at least six months next preceding such examination." For his services each inspector was to receive \$1200 a year and traveling expenses up to the amount of \$500. The term of office was two years, but an inspector could be removed by the Governor for neglect of duty or malfeasance in office after a hearing before the Board of Examiners demanded by five miners or one or more mine operators.¹⁸⁵

For the purpose of inspection the State is divided into three districts, one for each of the inspectors. The *Code of 1897* assigned to the State Mine Inspectors the duty of examining all the mines in their respective districts as often as time would permit, with a view to ascertaining the "extent and manner in which the laws relating to the government of mines and their operation are observed and obeyed, the progress made in improvements for the better security to health and life, number of incidents happening and their character, the number employed, and such other and further matters as may be of public interest and connected with the mining industries of

the state." They were also to see to it that the weighing apparatus of mines was kept adjusted. For the purpose of performing these duties they were given the right to enter any mine by night or day.¹⁸⁶

The law requires the Mine Inspectors to make biennial reports to the Governor by August fifteenth preceding the regular session of the General Assembly. Besides including all information that may be deemed useful, these reports are to contain suggestions for legislation.¹⁸⁷

There are two sections in the *Code of 1897* which regulate the matter of reporting accidents in mines. In the first place mine-owners, or persons in charge, must "forthwith, upon the happening of any accident to any miner in or about the mine by reason of the working thereof which causes loss of life," report it to the Mine Inspector and the coroner of the county. It was the duty of the coroner thereupon to hold an inquest and report his findings to the Mine Inspector.¹⁸⁸

Maps of mines are necessary in order that the inspector may properly discharge his duties. Consequently, in the *Code of 1897* there is to be found the regulation that an accurate map of every mine, brought up to date on September first of each year, must be on display in the office of the mine. Should a mine-owner fail to have a map brought up to date within sixty days the inspector may have it done at the owner's expense. An adjoining land-owner may require the extent of a mine to be examined when he thinks it necessary to the protection of his property.

A correct map of each worked out or abandoned mine must be delivered to the office of the Mine Inspector.¹⁸⁹

The statute in 1897 dealing with mine exits¹⁹⁰ made it necessary to have two distinct openings at all times unobstructed and separated by not less than one hundred feet of natural strata, for each seam of coal worked, if by shaft; and in mines operated by drift or slope, where five or more men are employed, the exits were to be separated by not less than fifty feet. Traveling ways to escape shafts were to be kept free from water and falls of roof. Escape shafts not provided with hoisting apparatus were to have stairs constructed at an angle of not more than sixty degrees descent and with landings at easy and convenient distances. Air shafts where fans were used for ventilation, and those used as escapes, were to be provided with suitable means for hoisting underground workmen, and no combustible material was allowed between any escape shaft and hoisting shaft except such as was absolutely necessary. When a furnace shaft was used as a means of escape it had to be divided by incombustible material for a distance of fifteen feet from the bottom and from there to the surface in such a manner as to exclude the heated air and smoke from the side used as an escape shaft. Should an escape shaft be less than one hundred feet from the hoisting shaft an underground traveling way was required to be maintained from the top of the escape for a distance of one hundred feet from the hoisting shaft.

If two or more mines were connected underground, the owners were allowed to use each other's hoisting shafts or slopes as escape shafts. No escape shaft could be constructed at a distance of less than three hundred feet from the main shaft without the consent of the State Mine Inspector. Neither could buildings, except the fan-house, be placed nearer the escape shaft than one hundred feet. However, if an escape way were destroyed by the drawing of pillars preparatory to the abandonment of the mine, the above provisions were not to apply, but in such a mine, or in any not conforming to the provisions for escapes, not more than twenty men might be employed at one time. Mine-owners were given one year in 1897 to comply with the law and at the expiration of that time if their mines were not brought into conformity with the statute, operations therein were to be suspended.¹⁹¹

It is essential that there should be means of communication between the various parts of the mine, and the *Code of 1897* provided that all mines operated by shaft or slope where the human voice could not be distinctly heard should be equipped with metal speaking tubes or other means of communication.¹⁹²

Safety precautions not taken in contemplation of fire or catastrophe but rather on account of the use of machinery have also been necessary. By 1897 it was required that cages used for carrying persons be equipped with a safety catch, overhead cover, and brake on all drums; that there should be a safety

gate at the top of each shaft, springs at the top of each slope, and a trail attached to each train used therein; that not more than ten persons should be permitted to ride on one cage at the same time, and no one but the conductor on a loaded car or cage; and that a sufficient supply of timber to be used as props should be kept ready and when required should be delivered to the places where it was needed.¹⁸³

Conspicuous among the laws governing conditions in mines are those which contemplate the preservation of health among the workers. One of the first considerations in mine-working is proper ventilation, and in the *Code of 1897* are found the directions that "not less than one hundred cubic feet of air per minute for each person, nor less than five hundred cubic feet of air per minute for each mule or horse employed therein, which shall be so circulated throughout the mines as to dilute, render harmless and expel all noxious and poisonous gases in all working parts" must be provided in mines by artificial means of sufficient power and capacity.¹⁸⁴

Closely allied to the provisions relative to ventilation in mines are the laws regulating illumination. The *Code of 1897* states that only pure animal or vegetable oil, paraffine, or electric lights shall be used in coal mines, and sets a penalty of a fine of from \$25 to \$100 for anyone selling or offering for sale impure oil for illuminating purposes in any mine, and another fine of from five to twenty-five dollars for anyone knowingly using or permitting such oil to be used. To the Mine Inspector is entrusted

the duty of investigating any suspicious cases of violation, according to the standard for oil set by the State Board of Health.¹⁹⁶

Workmen are forced to exercise care in their work. It is a misdemeanor for any miner, workman, or other person knowingly to injure or interfere with any air course or brattice, to obstruct or throw open doors, disturb any part of the machinery, disobey any orders, ride upon any loaded car or wagon in the shaft or slope, neglect or refuse to prop the roof and entries, or to do any act whereby the lives and health of the persons or the security of the mines and machinery is endangered. The *Code of 1897* forbade the employment of boys under twelve years of age in any mine, and stipulated that only "experienced, competent and sober engineers" should be placed in charge of any engine.¹⁹⁶

The law of 1897 declared that anyone giving short weight in a mine, or any owner or other person in charge who tried to coerce an employee to buy goods of a particular person or failed to carry out the requirements of the mining law should be punished by imprisonment in the county jail for not exceeding sixty days, and by a fine of not more than \$500. On the other hand, workmen committing dangerous acts are subject to imprisonment in the county jail for thirty days or a possible fine of \$100.¹⁹⁷ Should a mine-owner persist in his neglect to provide safety appliances the State Mine Inspector, after twenty days notice, may apply for a writ of injunction to

restrain the employment in the mine of more men than are absolutely necessary.¹⁹⁸

The transportation industries have afforded a rich field for legislation in the line of safety precautions against work accidents. A large quota of injured workmen each year has been furnished by the railroads. Prior to 1897, however, very little attention had been paid to the protection of life and limb on the common carriers.¹⁹⁹

All cars on every railroad in Iowa were to be provided with automatic couplers by January 1, 1898, and every engine had to be equipped with a "driver brake"; while it was made unlawful to run any train without a sufficient number of cars being equipped with power brakes so that the train might be controlled by the engineer without requiring the brakemen to go between or on top of the cars to use the hand brakes. The penalty for violation of the act was fixed at from \$500 to \$1000 fine for each offense, but this did not apply to railroads hauling cars engaged in interstate commerce and belonging to companies outside of the State.²⁰⁰

In the *Code of 1897* there is also the provision that street cars, except trailers, used for the transportation of passengers, must have the front vestibule enclosed on three sides from November first to April first. A fine of from \$50 to \$100 was authorized for each day's violation of this law.²⁰¹

The law in 1897 ordered the appointment by the

Governor of one or more persons to inspect passenger boats with a capacity of over five persons used on inland waters of the State, and not licensed by the authority of the United States. It was their duty to examine such boats annually before the boating season at the request of the owner or master, and, if found in proper condition, to certify the number of passengers that might be carried and on what waters. A fee of one dollar for the inspection of each sailboat was to be charged, and for steamboats the fee was from five to ten dollars according to the capacity of the boat. Every pilot and engineer was required to secure a license, which would remain in effect for five years unless revoked. Three dollars was allowed to be charged as a fee for granting licenses. The penalty in the case of owners, agents, masters, pilots, or engineers who conducted themselves in a manner incompatible with the intent of the statute was a fine of \$1000, imprisonment in the county jail for not exceeding a year, or both the fine and imprisonment. The Inspectors of Boats were required to make an annual report to the Governor.²⁰²

The antiquated Common Law of employers' liability was in 1897 still the only avenue through which an injured workman could claim indemnity. One new modification, however, had been made, this time in the doctrine of assumption of risk as applied to railroads. The innovation came about in connection with the law requiring power brakes and automatic

couplers on railway trains. A workman injured by the running of trains not so equipped was not to forfeit his right to damages by continuing in the employ of the company, although by so doing he would seem to have accepted the risk.³⁰⁸

VIII

SOCIAL LEGISLATION IN THE CODE OF 1897 AFFECTING SOCIETY IN GENERAL

LEGISLATION PERTAINING TO PUBLIC HEALTH

At the head of the administrative forces of the State which make for the preservation of health is the State Board of Health. The great advance in the direction of centralization marked by the creation of this board was taken by the Eighteenth General Assembly in 1880. According to the provisions of the *Code of 1897* the Board of Health consisted of the Attorney General, the State Veterinary Surgeon, a civil engineer, and seven physicians. Meetings were held in May and November at the capital. The board had "charge of and general supervision over the interests of the health and life of the citizens of the state; matters pertaining to quarantine, registration of marriages, births and deaths; authority to make such rules and regulations and sanitary investigations as it from time to time may find necessary for the preservation and improvement of the public health." This body was also given jurisdiction over the Medical Examiners Department, and was to review the regulations of the State Veterinary Surgeon in regard to the spread of infectious diseases among domestic animals. Biennial reports

to the Governor containing such data as might be "thought useful for dissemination among the people, with suggestions as to further legislation", were made. The secretary of the board was allowed a salary of \$1200 a year, but the members themselves received only their necessary expenses. An annual appropriation of \$5000 was the extent of the financial resources at the disposal of the board.²⁰⁴

The real work of preserving the public health, however, was left to the local boards of health. In truth the efficiency of these local boards still determines largely the absence or prevalence of disease in the State. They are composed of the mayor and council of each town or city and the trustees of each township, and a physician must be appointed as health officer. The duties of these local health authorities as set forth in the Code are to regulate the fees and charges of persons employed in the execution of health laws, to have charge of all cemeteries not otherwise controlled, to make regulations respecting "nuisances, sources of filth, causes of sickness, rabid animals and quarantine", and to maintain sanitary conditions in cellars, rooms, tenement buildings, and places occupied as dwellings. The care of infected persons is also under the direction of the local boards of health. Meetings are required to be held on the first Monday of April and October and at such other times as is necessary.²⁰⁵ The regulations adopted by local boards must be published in some local newspaper, if there is one, or posted in five public places. An annual report

to the State Board of Health is also required. Expenses are paid by the town, city, or township, and the method of obtaining funds for this purpose in townships is by a tax levy. It devolves upon the local boards of health to enforce the rules of the State Board; while peace and police officers must also give assistance when called upon to do so. For failing or refusing to comply with the orders of either the State or local boards of health there is a penalty of a forfeiture of twenty dollars for every day that a person fails, neglects, or refuses to obey.²⁰⁶

In special charter cities a somewhat different system prevailed in 1897 and still obtains. There the local board of health is composed of five members, a majority of whom, including the mayor, are members of the city council. In general the powers and duties of these boards, although more elaborately enumerated, are identical with those of other local boards of health. In such cities, however, failure to comply with a rule of the local board is punishable by a maxim fine of \$100 or a jail sentence of thirty days. Monthly rather than semi-annual business meetings are required.²⁰⁷

Because their professions have to do with the problems of public health the *Code of 1897* required physicians, pharmacists, and dentists to obtain a certificate of competency according to prescribed standards before beginning to practice.²⁰⁸

Anyone "knowingly exposing another to infection from any contagious disease, or knowingly sub-

jecting another to the danger of contracting such disease from a child or other irresponsible person", says the *Code of 1897*, is guilty of a misdemeanor and liable for damages resulting. The former regulations and penalty in regard to exposure to smallpox remained in force. The maximum penalty prescribed for placing a person infected with diphtheria, smallpox, or scarlet fever upon a public conveyance is \$100 fine or thirty days imprisonment in the county jail.²⁰⁹

In 1897 the local board of health had power to remove any person infected with smallpox or other disease dangerous to the public health to a separate house, if it could be done without injury to the patient, and there provide nurses, needful assistance, and supplies at his expense, if able, or if unable, at the expense of the county. Should it be impossible to remove a person, the same care, with like conditions as to charges therefor, was to be furnished where the patient was confined and neighbors could be compelled to remove from the vicinity of the infected house.²¹⁰

Another precaution with a view to preventing the spread of contagious disease was the authorization of local boards of health to forbid people to congregate in schools, churches, theaters, and other buildings when contagious disease is prevalent. Likewise people not vaccinated may be excluded from public and private schools.²¹¹

In addition to the laws already in existence concerning the care of diseased live stock it was made

unlawful for a person to sell diseased swine, convey them along a highway, or allow them to escape. Those dying from disease had to be burned. From \$5 to \$100 fine, thirty days imprisonment, or both could be imposed upon anyone violating these provisions. Some modifications were made relating to diseased cattle and the penalty changed to a fine of from \$300 to \$1000, six months imprisonment, or both.²¹²

To afford better control over disease among domestic animals a State Veterinary Surgeon with power to inspect, destroy (with the approval of the Governor, and the consent of the owner), and quarantine stock infected with contagious disease is provided for in the *Code of 1897*. Local officials notified the Governor when disease became prevalent, and the Governor in turn sent the State Veterinary Surgeon to the place to take such action as the exigencies of the situation demanded. In order to carry out the purposes of the law \$3000 was appropriated annually. Originally the compensation of the State Veterinary Surgeon was five dollars a day and expenses while on duty. Biennial reports are made to the Governor.²¹³

In Iowa, as in most of the American Commonwealths, records of births, deaths, marriages, and divorces are in a deplorable condition, due probably about as much to the multiplicity of methods used as to incompetency. The system as found in the *Code of 1897* makes it the duty of assessors to report

to the clerk of the district court all births and deaths in their respective districts during the year. It was for the clerk of the district court to record this data along with the record of marriages occurring in the county and to report annually to the secretary of the State Board of Health.²¹⁴

To enforce the laws regulating the purity of food, the only officer designated in the Code was the Dairy Commissioner, appointed by the Governor on April first of even-numbered years. It was his duty to maintain a correct standard in milk-testing machines, to test samples of milk sold in cities having over 10,000 inhabitants, to license all milk dealers annually in such cities, to inspect the milk offered by them for sale at any time, to enforce other requirements relating to dairy products, and to report his activities to the Governor each year by the first of November. For these services the Dairy Commissioner was allowed a salary of \$1500 and expenses to the amount of \$3000. He could employ a clerk at seventy-five dollars a month. A system of reports was required from those manufacturing or selling dairy products.²¹⁵

The provisions in the Code relative to pure food are divers and miscellaneous. Beginning with the old law prescribing a penalty of thirty days imprisonment or \$100 fine for selling unwholesome provisions, the law defines various other offenses against the public health and establishes a different penalty

for each. For adulterating food or liquor that is to be sold a sentence of one year in the county jail or a fine of \$300 might be imposed. Mixing, coloring, staining, or powdering any article of food intended for sale with any material injurious to health was forbidden, and if such treatment did not render an article injurious to health, before it could be sold, it was required that the purchaser should be informed of its true nature and of the names of the ingredients either by the label or by the seller. The use of glucose and grape sugar without being properly labelled was especially prohibited. Anyone violating these provisions could be punished by a fine of from \$10 to \$50 for the first offense, a fine of from \$25 to \$100 or thirty days imprisonment for the second, and for the third offense by a fine of from \$500 to \$1000 and imprisonment in the penitentiary for from one to five years.²¹⁶

A person selling impure or skimmed milk, skimmed-milk cheese, unless so labelled, or cream below standard was liable for double damages to the person thus fraudulently treated and subject to be fined from \$25 to \$100. The "addition of water or any other substance or thing to whole milk or skimmed milk or partially skimmed milk" was declared to be an adulteration and milk obtained from animals fed upon unhealthy food, or those having disease, sickness, ulcers, abscesses or running sores, or milk taken fifteen days before or five days after parturition was held to be impure and unwholesome. Whole milk was required to contain three pounds of butter fat

to one hundred pounds of milk, and standard cream was to possess fifteen percent of butter fat.²¹⁷

Imitation butter and cheese, as defined in the *Code of 1897*, are such substances as are designed to be used in place of butter and cheese made from pure milk or cream from cows; and the manufacture, possession, sale, transportation, or use in public boarding places of such articles was held to be unlawful unless they were properly labelled so as to expose their true nature. No one was permitted to color imitation butter or cheese or combine any animal fat, vegetable oil, or other substance with butter or cheese. It was further provided in the Code that lard made from diseased hogs should be designated as such and for violation a fine of from \$5 to \$100 or thirty days confinement in the county jail could be imposed. Lard made from any materials other than pure fat of healthy swine was to be labelled "Compound lard", giving the names and proportions of the ingredients. If this were not done the offender was to be fined for the first offense any amount from \$20 to \$50, and for each subsequent offense not less than \$50 or more than \$100.²¹⁸

Labels on all "hermetically sealed, canned or preserved fruits, vegetables or other articles of food, not including canned or condensed milk or cream" and on all "soaked goods, or goods put up from products dried or cured before canning" were required to bear the name, address, and place of business of the person, firm, or corporation that canned or packed the articles, and in addition soaked goods

were to be marked "soaked". Retail dealers could be fined not over fifty dollars for each violation of the law and wholesale dealers or packers not less than \$500 nor more than \$1000.²¹⁹

To guard against impure drugs provision was made that no material could be used to mix, color, stain, or powder any drug or medicine which would render it injurious to health or affect its potency. If a harmless ingredient of this character was added the drug had to be sold under its true name. Violation of these provisions subjected the offender to a fine of from \$10 to \$50 the first time, to a fine of from \$25 to \$100 or imprisonment for thirty days for the second offense, and all subsequent infringements might result in a fine of from \$500 to \$1000 and imprisonment in the penitentiary for from one to five years. Registered pharmacists are responsible for the purity of the drugs they sell and adulteration by them constitutes a misdemeanor.²²⁰

Sanitation is a municipal problem, although the power of regulation is delegated by the State to municipalities and, through the State Board of Health, to local boards of health.²²¹ By the *Code of 1897* cities are given the power to construct sewers for the drainage of the city; to "deepen, widen, straighten, wall, fill, cover, alter or change the channel of any water course"; to prevent injury or annoyance from anything offensive or unhealthy; to destroy tainted or unsound provisions; to regulate slaughter houses, renderies, tallow candleries and

soap factories, bone factories, tanneries, and manufactories of fertilizers and chemicals; to regulate and restrain the deposit and removal of all offensive material and substances; to cause lots upon which water becomes stagnant to be filled or drained; to see that drainage is preserved; to license plumbers and scavengers; and to regulate and inspect the plumbing connecting any building with sewers.²²³

The board of health in special charter cities is specifically charged with a number of kindred duties. It may compel sewer connection; regulate the plumbing, drainage, and ventilation of any building; and cause filth and contagion to be removed and unfit premises to be cleaned or the occupants removed until they are. Cities acting under special charters may also establish a public bath-house when the board of health declares it to be essential.²²³

The *Code of 1897* required that two water closets be maintained in connection with every school house.²²⁴

To the list of nuisances injurious to health the *Code of 1897* adds opium and hasheesh joints, improperly constructed drains, and interference with levees, drains, and water courses. Local boards of health are empowered to examine, prevent, remove, or destroy any nuisance, source of filth, or cause of sickness.²²⁵

LEGISLATION PERTAINING TO PUBLIC SAFETY

Between 1873 and 1897 a marked advance was made in legislation the purpose of which was to in-

sure the safety of the public. That the public may be protected from the danger of fire,²²⁶ the meager authority to maintain fire departments — although that authority was broadened ²²⁷ — which was given to cities and towns was extended by the additional power to make regulations concerning the construction of buildings. They may by ordinance repair, remove, or destroy any dangerous buildings; they may make regulations against danger from fire and establish fire limits within which all buildings must have non-combustible outer walls and roof; they may control the erection of chimneys, flues, fireplaces, stovepipes, ovens, boilers, heating apparatus, and the use of lights in shops and stables; they may regulate manufacturies by providing against danger from fire; they may regulate or prohibit bonfires and the use of fireworks; they may prevent the deposit of combustible material in unsafe places; they may require the construction of fire escapes and make regulations concerning their use and character; they may provide for the inspection of steam boilers and regulate and inspect the storage places of explosives; and they may prohibit the placing of lumber or wood on any lot within one hundred yards of a dwelling house.²²⁸

The *Code of 1897* also makes provision that a board of public works in cities with over 30,000 population shall have the power to require the plans of all buildings costing over \$5000 to be submitted to it for approval, and every person must get a permit from this board to build within the city limits.

It also has authority to determine the size, number, and manner of construction of fire escapes, doors, and stairways in theaters, tenement houses, audience rooms, and public buildings used for the gathering of large numbers of people.²²⁹

In special charter cities the plans of all buildings within the fire limits costing over \$2000 must be approved, and permits to build within the city are granted when the specifications for plumbing, drainage, ventilation, and electric wiring have been approved by the board of health or electrician.²³⁰

In the matter of road rules the *Code of 1897* stipulated that steam engines traveling on a public road must whistle and stop one hundred yards from any person with horses or stock, and be preceded one hundred yards by a competent person to assist in the case of frightened animals. Bridges and crossings must be planked before crossed by an engine. Violation constituted a misdemeanor and the violator was liable for damages.²³¹

Railway locomotives must whistle twice before coming within sixty rods of a crossing and the bell must be kept ringing continuously until the road is passed. Whistling may be omitted in towns according to the local ordinance. Cities of over 5000 population may require railroads to protect crossings by means of gates, and those having 7000 inhabitants may demand viaducts to be built over the tracks.²³²

Owing to the necessity of protecting the public from the wrong use of poisons the *Code of 1897* con-

tained the provision that only registered pharmacists or physicians might sell or dispense poisons, except such as are contained in proprietary medicines, domestic remedies, concentrated lye, and potash if they are labelled as being poisonous, and that "arsenic and its preparations, corrosive-sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia and other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations except paregoric and other preparations of opium containing less than two grains to the ounce aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, and the pharmaceutical preparations, croton oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid" could be sold only in usual quantities upon the prescription of a physician, unless they were labelled as such and not delivered until the party receiving them should be aware of their character and proper use. A record of the sale of all poisons was to be kept for five years. The penalty for violation was a fine of from \$25 to \$100, confinement in jail for from thirty to ninety days, or both.²³³

The primary purpose of the inspection of petroleum products is to insure the safety of persons using them. The original object was to prevent the adulteration of kerosene with gasoline.²³⁴ In 1897 as many as fourteen inspectors of petroleum products

could be appointed by the Governor for a term of two years. Compensation was to be derived from the fees collected, up to the amount of fifty dollars a month, and twenty-five percent of the fees over that sum could be appropriated by the inspector up to a maximum compensation of \$100 a month. The inspectors were under the supervision of the State Board of Health, and it was their duty to inspect all illuminating oil kept for sale, including gasoline, benzine, and naphtha. The required standard was that such oils should not emit a combustible vapor at a temperature of 105 degrees Fahrenheit. After inspection oils were to be branded as being accepted or rejected according to the result from the test, and all gasoline was to be labelled as such. Monthly reports to the Secretary of State from each inspector and biennial reports from the Secretary of State to the Governor were required.

Those persons misbranding or adulterating oil; using it in a dangerous manner; selling or using that which did not come up to the standard, except in railway cars, boats, and public conveyances or where the gas was generated in closed reservoirs outside the building or, in the case of products with specific gravity between seventy and seventy-five degrees, in Welsbach and street lamps, were held liable for damages for such action. Common carriers were likewise held liable for damages if they should carry or use on public conveyances any petroleum product which would ignite at 300 degrees Fahrenheit, open test.

To insure the proper administration of the law, the inspectors could be fined for neglect of duty all the way from \$10 to \$1000, be imprisoned in the county jail for six months, or both fined and imprisoned.²⁸⁵

LEGISLATION PERTAINING TO PUBLIC MORALS

One of the most significant additions to the legislative code of public morals in 1897 was the prohibition of prize fighting. It may be indulged in only at the risk of a fine of from \$100 to \$1000, imprisonment in the penitentiary for not longer than a year, or both; while those who assist in any prize fight may be fined not over \$500 or put in jail for not longer than one hundred and fifty days. Peace officers may require security to keep the peace from those thought to be about to engage in a prize fight. For the use or granting the use of any building to be used for showing pictures of a prize fight there is a penalty of from \$500 to \$1000 fine, imprisonment in the county jail for from thirty days to one year, or both the fine and imprisonment; while anyone assisting in showing such pictures may be fined not less than \$50 nor more than \$100 or imprisoned for not over thirty days for each offense.²⁸⁶

In the *Code of 1897* the sale, publication, and distribution of obscene books, pictures, or songs manifestly tending to corrupt the morals of youth are prohibited on penalty of confinement for a year in the penitentiary or a fine of \$1000. A fine of not

less than \$50 or more than \$1000, imprisonment in the county jail for not longer than a year, or both, might be imposed upon anyone possessing for sale or distribution any indecent literature, articles of immoral use, or advertisements of them. The same penalty is prescribed for circulating such articles or advertisements through the mails or for knowingly conveying them. Newspapers are prohibited from printing or publishing any advertisement of a medicine or instrument purporting to be a cure of venereal disease, and in this case again the above penalty accompanies violation.

To prevent minors from coming into possession, selling, or distributing, or even seeing magazines, pamphlets, or story papers mainly composed of police reports and deeds or pictures of crime, immorality, and lust, those who sell or distribute such literature or engage or permit a minor to do so may be fined from \$50 to \$500, put in jail for six months, or be both fined and imprisoned. Magistrates and police judges may issue warrants to search for, seize, and cause to be destroyed any of the immoral literature or articles mentioned.

The display of any obscene or impure decorations, inscriptions, or placards in a saloon operating by virtue of having complied with the mulct law is forbidden. Anyone playing a phonograph record which contains obscene or immoral language may be fined not exceeding \$1000 or imprisoned in the penitentiary for not more than a year. Finally, the Code provides that a person using blasphemous or ob-

scene language in public shall be subject to be either fined an amount less than \$100, imprisoned for not more than thirty days, or both.²³⁷

The only addition to the list of offenses against chastity included in the *Code of 1897* was that of sodomy, for the commission of which there was prescribed a penalty of not more than ten years nor less than one year in the penitentiary; but it was left for the Twenty-ninth General Assembly to define the offense.²³⁸

Prostitution may now be indulged in only at the risk of being incarcerated in the penitentiary for a term of five years. Furthermore, the penalty for enticing away a girl for the purpose of prostitution was increased to five years in the penitentiary, or one year in jail and a fine of not exceeding \$1000; while the age limit of the victim to which this offense applied was raised from fifteen to eighteen. The provision in connection with the operation of mulct saloons which prohibits the employment of women therein is primarily for the purpose of suppressing prostitution.²³⁹

The penalty for keeping a house of ill fame was changed in 1884 to a term of from six months to five years in the penitentiary. Likewise anyone enticing or inveigling a virtuous or reformed woman to a house of ill repute could be sentenced to the penitentiary for a period of from three to ten years; while anyone resorting to or living in such a place

runs the risk of serving a term of five years in the penitentiary. Cities and towns could by ordinance not only suppress and restrain disorderly houses but could punish the keepers and those who resorted thereto as well.²⁴⁰

Paradoxical as it may seem, in 1897 — and in fact it is the present status of the liquor problem in Iowa — the statutes of the State both prohibited absolutely the manufacture and sale of intoxicating beverages and provided for a tax on the illegal sale and manufacture of the same. The situation has been characterized as “an instance of political acrobatism that is without a parallel in history.”²⁴¹

The *Code of 1897* provides the penalty of a fine of from \$50 to \$100 for the first offense of manufacturing or selling liquor and for subsequent violations the fine is from \$300 to \$500 or imprisonment for not exceeding six months. Whoever erects or uses a building for the sale of liquor is declared to be guilty of a nuisance and subject to be fined from \$300 to \$1000, while the building as a nuisance may be abated in a manner similar to that provided in the case of houses of ill fame. For the second offense of maintaining a nuisance in the same county the penalty is confinement in the county jail for not less than three months nor more than one year. In the Code authority is also given to the proper officials to issue search warrants for the seizure of liquor believed to be kept and sold

illegally, to try the case, and to destroy the liquor and the vessels containing it if the case against the offender is proved.

Fines and costs constitute a lien on any property or sureties, except a homestead, possessed by an offender. Contracts for the illegal sale of liquor are void. An owner upon whose property any violation of the liquor law is committed by a tenant may terminate the lease within thirty days. Finding liquor in the possession of one not authorized to sell it or in unusual quantities in a private dwelling, or the display of a United States revenue stamp is presumptive evidence of violation of the law. Peace officers are entrusted with the enforcement of liquor regulations and to so interpret them as to prevent evasion.

Provision is made in the Code, however, that a registered pharmacist, a citizen of the United States and Iowa, who has conducted a pharmacy six months in the locality where he expects to sell intoxicating liquor, who has not violated the liquor laws in the two years preceding, who does not keep a hotel, eating-house, saloon, restaurant, or place of public amusement, who is not addicted to the use of intoxicating liquor, and who desires to do a lawful business, may petition and secure a permit to sell intoxicating liquor for medical purposes upon giving bond and taking oath to abide by the law. Such pharmacists must keep a record of all purchases and sales and are required to have those purchasing liquor sign a statement as to its use, the place of residence of the

purchaser, whether he or she is of age, and that the intoxicating liquor is not to be used as a beverage. Permit-holders are given the right to ship liquor to registered pharmacists and manufacturers of proprietary medicines. Illegal sales by a permit-holder are punishable in the same manner as in the instance of any other person and operate to the revocation of the permit as well as the offender's certificate of registration as a pharmacist, should the Commissioners of Pharmacy deem such action advisable. No more than two registered pharmacists may be employed by a permit-holder to sell intoxicating liquor.

The Code forbids common carriers to transport intoxicating liquor on penalty of a \$100 fine, without a certificate from the clerk of the court showing that the consignee is a permit-holder, and false statements on the part of any person as to the contents of a vessel or box containing liquor, made in an endeavor to get it shipped, may likewise be punished by a fine of \$100. No packages containing liquor may be carried unless they are properly labelled as such.²⁴²

Such is the law in the Code prohibiting the manufacture and sale of liquor. But that body of statutes also contains a mulct tax law which permits the illegal sale and manufacture of intoxicating liquor upon the payment of a fine and upon the consent of a certain number of voters. In cities of 5000 or more inhabitants the payment of a tax of \$600 annually, or more at the discretion of the municipality, by all persons engaged in the sale of in-

toxicating liquors as a beverage or by the owner of the property where such business is carried on, constitutes a bar to proceedings under the prohibitory law, in case there should be filed with the county auditor a written statement of consent signed by a majority of the voters residing in such a city who voted at the last general election. Moreover, the person paying the tax must file a resolution of consent from the council and adjacent property-owners; must not be a local official; must not maintain his saloon within three hundred feet of a church or school house or within one-half mile of a fair; must give bond for the faithful observance of the mulct tax; must maintain the place of sale in a single room with but a front entrance, and with the bar in view of the street and the room free from chairs, benches, and obscene pictures; must conduct the business in an orderly manner, permit no gambling nor amusements in connection therewith, and employ no women; must exclude all minors, drunkards, and intoxicated persons; and must open not earlier than five in the morning and close not later than ten in the evening. The same provision holds true in towns of less than 5000 inhabitants except that here the statement of consent must be signed by sixty-five percent of the voters residing within the county but outside of the corporate limits of cities having a population of 5000 or over. The tax constitutes a lien upon all property, both personal and real, used in or connected with the business. The revenue de-

rived from this tax is paid into the county treasury, one-half going to the general county fund and one-half to the municipality or township where the tax is collected. It is especially stipulated, however, that nothing in the law is to be construed as "to mean that the business of the sale of intoxicating liquors is in any way legalized, nor as a license".

Consent to manufacture liquor can be granted, according to the Code, only in cities and towns which have in a similar manner granted permits to sell. Such manufacturing establishments, however, must not be within three hundred feet of any school, college, or place of worship, nor is drinking or retailing permissible therein.²⁴³

The sale of liquor within a mile of military encampments is a misdemeanor. The punishment for becoming intoxicated is now between five and twenty-five dollars, or imprisonment in the county jail for not over thirty days. Any citizen of the county who files information of the existence of an establishment selling or giving intoxicating liquor to minors, inebriates, or intoxicated persons is entitled to one-half of the fine collected, as a reward: the other half is turned into the school fund. The use or sale of liquor in a club-room is punishable by a fine of from \$100 to \$500 or imprisonment in jail for from thirty days to six months.²⁴⁴

The only regulation of the sale of tobacco to be found in the *Code of 1897* is that which prohibits the sale or giving of tobacco in any form to any minor

under sixteen years of age without the written order of his parent or guardian. The penalty imposed is a fine of from \$5 to \$100.²⁴⁵

The situation in regard to the manufacture and sale of cigarettes is somewhat similar to that of intoxicating liquors. The manufacture, sale, or giving away of cigarettes or cigarette papers is prohibited in the *Code of 1897* and whosoever is guilty of so doing is liable to a fine of from twenty-five to fifty dollars for the first offense, and for subsequent offenses a fine of not more than \$500 nor less than \$1000, or imprisonment for not exceeding six months is the penalty. Moreover, a mulct tax of \$300 a year, in addition to all other taxes and penalties, to be collected and distributed in the same manner as the liquor mulct tax, but not constituting a bar to prosecution as does the payment of the liquor tax, is supposed to be assessed against every person or firm manufacturing, selling, or giving away cigarettes.²⁴⁶

The operation of an opium-smoking establishment or the use of opium or its preparations in such a place is declared to be a misdemeanor punishable by a fine of not exceeding \$500, by imprisonment for not longer than six months, or by both. Furthermore, opium joints are deemed to be nuisances subject to abatement, and cities and towns have power to suppress, restrain, and prohibit them, and to punish the keepers and persons resorting thereto.²⁴⁷

To ameliorate as much as possible the influence of certain institutions and conditions that tend to con-

taminate and vitiate the youth, minors are not allowed in any "billiard hall, beer saloon or nine or ten pin alley" and anyone permitting them to remain in such places is supposed to be fined from \$5 to \$100 or put in jail for not over thirty days. Neither is it permissible to sell or give a "pistol, revolver or toy pistol" to any minor, and the fine in this case is from \$25 to \$100, while the maximum term of imprisonment is thirty days.²⁴⁸

Cities and towns may "regulate, license, tax or prohibit billiard saloons, billiard tables, pool tables, and all other tables kept for hire; bowling alleys and shooting galleries or places". No gambling is allowed in mulct saloons. Anyone selling pools, permitting it to be done on his property, or any stakeholder may be fined as high as \$1000, imprisoned for a year, or both. Dealing in options and the operation of "bucket shops" are prohibited on penalty of a fine of from \$100 to \$500, imprisonment for from thirty days to a year, or both the fine and imprisonment.²⁴⁹

PART II
SOCIAL LEGISLATION IN IOWA
1898-1914

IX

GENERAL LEGISLATION CONCERNING INSTITUTIONS

Great as was the increase in social legislation between 1873 and 1897, the seventeen years which have elapsed since that time have been vastly more indicative of the development of public concern for social welfare in Iowa. Indeed, since 1900 everywhere in the United States the trend has been to prevent the appearance of conditions unfavorable to the general welfare. Not that preventive measures have superseded the remedial legislation characteristic of the preceding period — for as a matter of fact there has been an increased endeavor to remedy existing evils — but there has been a truer sense of social justice which has so tempered the public conscience and broadened the vision of social possibility that many recent statutes have aimed to remove the causes of undesirable conditions rather than to remedy apparent evils.

Very much of the legislation relating to dependents, defectives, and delinquents has to do with their care and custody in the various institutions. Consequently some of the laws apply to all these institutions and classes in common. At the end of the last

century Iowa felt the general movement toward centralization of the administration of charities and correction. The result appears in the most conspicuous piece of legislation that affects dependents, defectives, and delinquents — namely, in the establishment of the State Board of Control.

In 1898 the Governor was authorized to appoint three electors of the State who should constitute a "board of control of state institutions" which was to have "full power to manage, control, and govern, subject only to the limitations contained in this act, the soldiers' home; the state hospitals for the insane; the college for the blind; the school for the deaf; the institution for the feeble-minded; the soldiers' orphans' home; the industrial home for the blind; the industrial school, in both departments; and the state penitentiaries."²⁵⁰

Prior to this time the management of these institutions had been vested in various boards of trustees and commissioners for each institution. The Governor and Executive Council were in charge of the penitentiaries. But with the advent of the State Board of Control "all the powers heretofore vested in or exercised by the several boards of trustees, the governor, or the executive council with reference to the several institutions" were assumed and exercised by it. Since 1898 the College for the Blind has been transferred to the jurisdiction of the State Board of Education; the Industrial Home for the Blind has been discontinued; while the Reformatory for Females, the Hospital for Inebriates, the Hos-

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pital for Female Inebriates, the Colony for Epileptics, the Sanatorium for the Treatment of Tuberculosis, and a State Custodial Farm, together with increased authority over divers local institutions caring for the same classes of people have been added to the care of the Board of Control.

Each member of the Board is appointed for a term of six years, receives \$3000 a year in salary, and devotes his whole time to the duties of his office. The Board employs a secretary at a salary not exceeding \$2000 a year, and in 1900 provision was made for the appointment of a member of the Board as acting secretary during the absence or disability of the secretary.²⁵¹ It is the duty of the Board to visit and inspect each institution once every six months and make a biennial report to the Governor and legislature not later than November fifteenth of the year preceding the meeting of the General Assembly. Estimates for appropriations, suggestions for legislation, and the daily record of each institution are included. Statements of the cost of maintenance are required annually.

In regard to the finances and support of the various institutions the Board, in the first place, requires a uniform system of records and accounts. The power to fix the salaries of all officers and employees in the several institutions is vested in the Board, unless the compensation is determined by the General Assembly. Funds for the support of the institutions, with the exception of a contingent fund of \$250 in the hands of the managing officer, are drawn

monthly from the State Treasury, based upon monthly estimates approved by the Board of Control. Monthly abstracts of the expenses for the preceding month are made by the commissary officer to the Board of Control and a complete inventory of the stock and supplies of each institution must be reported annually by the chief executive officer. Supplies to last thirty days may be purchased on the approved estimates of the Board of Control; and if purchase in bulk for use longer than thirty days is deemed feasible, contracts may be entered into by the proper officers of the institutions or by the representative of one institution acting for the others. Such contracts are let on a competitive basis, but local dealers are given preference if it can be done without loss to the State. In 1900 provision was made so that the Board of Control may, without estimates being made, order supplies to be purchased for one institution from another under its control.²⁵²

For improvements costing more than \$1000 the Board must secure plans before making recommendations for appropriations, and no expenditure of an appropriation for any amount is allowed until suitable plans and specifications have been secured. A State Architect may be employed for this purpose at a salary not exceeding \$3000 a year. No buildings or improvements may be constructed which contemplate a cost greater than the amount of the appropriation. All contracts for the construction of improvements must be let by the chief executive officer of the institution where they are made, with

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the approval of the Board of Control. In certain cases the labor of inmates may be utilized if it would be advantageous to the State.

The possibility of any officer or employee connected with any of the State institutions exerting a political influence or receiving any gratuity or contribution which might prejudice him in the purchase of supplies is carefully guarded against. This provision was broadened in 1900 to include any employee of the Board of Control as well as those of the institutions, and at the same time officers and employees connected with State institutions were protected from solicitation for political funds by making that act a misdemeanor.²⁵³

Further powers of the Board of Control fixed by the act of establishment are the holding of quarterly conferences with the executive officers of each institution at which matters of administration are discussed; ²⁵⁴ the collection of information in regard to the best methods of treatment of dependent, defective, and delinquent classes and the publication of such information in bulletin form; the districting of the State into divisions from which certain institutions may receive inmates or patients; the power of compelling the executive officers of the institutions to provide adequate fire protection; the power to make further rules and requirements necessary for the proper administration of the various institutions; and the power to appoint for a term of four years, subject to removal, the several executive officers of the institutions, who have the same qual-

ifications and duties as before, except as these qualifications and duties were modified by the act creating the Board of Control.

Some specific powers are designated in regard to the care of the insane, and the Board was given the task of thoroughly investigating the management and the estimates for improvements of the State University, the State Normal School, and the State College of Agriculture and Mechanic Arts. This last duty, however, was discontinued in 1909 with the establishment of the State Board of Education.²⁵⁵

The original act of the Twenty-seventh General Assembly also provided that the Board of Control should keep a "record showing the residence, sex, age, nativity, occupation, civil condition and date of entrance or commitment of every person, patient, inmate, or convict", together with data concerning his discharge or transfer. The chief executive of each institution was to appoint and discharge all the assistants and employees. The act also abolished the office of local treasurer in the institutions and provided that all funds on hand should be turned over to the State Treasurer in accordance with the new plan.

Another law which applies to all the eleemosynary institutions of the State supported by public funds is that of 1906 which guarantees to all inmates of such institutions the free exercise of religious worship, grants to clergymen of the creed preferred access to each inmate, and permits an inmate to engage in an hour's religious service on the first day of the

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week. Minors may make a church preference with the approval of their parents or guardian.²⁵⁶

Finally, the Thirty-fifth General Assembly passed an act levying an annual tax of one-half a mill on the dollar of the assessed valuation of the taxable property of the State for a period of five years beginning in 1913. It is to be paid into the State Treasury and placed to the credit of the "Iowa soldiers' home, Iowa soldiers' orphans' home, school for the deaf, institution for feeble-minded children, state sanatorium for the treatment of tuberculosis, state industrial schools, state hospitals, penitentiary, reformatory, Iowa industrial reformatory for females, district custodial farm, and state colony for epileptics," for the purpose of making improvements, the purchase of land, and the establishment of industries in the above institutions. But none of these levies may be expended by the Board of Control in buildings costing over \$5000 without first obtaining the approval of the General Assembly to the plans. In case, however, alterations are desirable afterward, when the General Assembly is not in session, the sanction of the Executive Council will be sufficient authority if the proposed alteration does not involve an expenditure of more than \$25,000 on any one building. An exception to the last condition would occur in case of fire or accident.²⁵⁷

X

LEGISLATION CONCERNING DEPENDENTS

POOR RELIEF

Since 1897 changes in the law regulating poor relief have been of a minor character. The first new legislation along this line was in regard to the power of public corporations to accept benevolent gifts or bequests: school corporations were included along with counties, cities, and towns in 1900.²⁵⁸ In 1909, counties, cities, and towns were given power to levy a tax, not exceeding three mills on the dollar of the assessed property of the municipality, for the maintenance of benevolent institutions, including hospitals, received by gift or devise, if upon submission at an election such a proposition should receive a majority vote. The governing board of the municipality may discontinue the levy of the tax if the property is destroyed by the elements and there is no fund for rebuilding, or if after five years further support is voted down by sixty-five percent of the votes cast, the resubmission of the proposition having been initiated by the governing board or ordered by a petition of twenty-five percent of the electors.²⁵⁹

In the same year the tax rate for the support of the poor was raised from one to two mills, and the name "county home" substituted for "poor house".²⁶⁰

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The only other piece of legislation having to do with poor relief since 1897 was the work of the Thirty-fifth General Assembly. This law requires that all organizations, institutions, or charitable associations which solicit public donations in Iowa must obtain a State license from the Secretary of State. The purpose is to prevent frauds in the collection of money for charitable purposes. Churches and schools or church or school societies are not, however, included. A fine of one hundred dollars or imprisonment for thirty days in the county jail is the maximum penalty for soliciting funds without a license, or, if under a license, for diverting them to a use other than that for which they were contributed.²⁶¹

CONTRIBUTORY DEPENDENCY

While juvenile courts had been established in 1904 it was not until 1909 that there was any legislation which struck at the source of the difficulty of protecting and promoting the welfare of children in Iowa. In that year an act was passed by the Thirty-third General Assembly which made it possible for action to be taken against persons contributing to the dependency or neglect of a child.²⁶²

When a child is found to be dependent or neglected, those persons "having the care, custody, or control of such child", or any others who encourage, counsel, contribute to, or are responsible for the neglect of the child, by wilful omission or neglect of duty, are guilty of contributory dependency and may be proceeded against in the district court ac-

according to the method pursued in equity cases. If the person is found guilty he may be released on probation for two years, a bond being required which, if not executed within the time set by the court, renders the person liable to be committed to jail until it is paid. Should the court's order or the terms of the bond be violated during the two years, the county attorney may recover the bond, in which case the money is placed in the hands of the chief probation officer²²² for the care and maintenance of the child.

A guardian may be appointed for a person guilty of contributory dependency if he is a spendthrift or an habitual drunkard incapable of managing his own affairs, and, unless he is able without, such a person can be compelled to work for the support of his children, while failure to do so will be considered as contempt of court. If the contributory dependency consists of habitual intoxication, however, it is the duty of the court to commit the drunkard to such hospital for inebriates as the State may furnish and upon release from such an institution he must be placed under the aid and assistance of a special probation officer for the remainder of a two-year term, dating from the time of the commitment — the costs of treatment and suit, including the salary of the probation officer, to be paid by the offender.

The court may levy on any property, including wages, without exemption, except such as are provided for unmarried people in another connection, if the person guilty of contributory dependency fails to apply a sufficient sum for the benefit of his family.

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Proceedings brought because of contributory dependency do not preclude the possibility of taking criminal action also if the case demands.

When children are allowed to remain with a person guilty of contributory dependency the court is authorized to prescribe conditions calculated to remove the cause of dependency and neglect. But if the court deems it to be in the best interest of the child, he or she may be placed in an authorized juvenile detention home.

A child is held to be abandoned if the parent or parents found guilty of contributory dependency fail to comply with the orders of the court during the two-year period, or if they depart from the jurisdiction of the court and for six months fail to support the child without satisfactory excuse. If at the end of two years a child is abandoned by both parents it may be adopted out by the clerk of the district court or turned over to the Soldiers' Orphans' Home or some approved home-finding association, and such adoptions bar the child neither from the rights of inheritance from its former parents nor from the inheritance rights gained by the adoption — wills to the contrary notwithstanding. A child may be declared abandoned by one parent and not by the other, and in case of divorce, if the parent having the custody and care of the child is adjudged to be guilty of abandonment, the ability and propriety of the other to take the child remains to be considered.

Finally, the act of 1909 provided that if "any person lead, take, decoy or entice" a child away from a

family, home, or institution, or interfere with the peaceful possession and control of such a child, he should be punished by imprisonment in the penitentiary for not more than ten years, by a fine of not exceeding \$1000, or by both fine and imprisonment — thereby repealing the section in the *Code of 1897*, which provided the same punishment for the person who should “maliciously, forcibly or fraudulently lead, take, decoy or entice away any child under the age of fifteen years, with intent to detain or conceal” it from those having lawful charge. Thus the act of 1909 extended the age limit under which the law against the enticing away of children applied to the time when children legally cease to be such, for although a dependent or neglected child is defined as one under sixteen years of age,³⁶⁴ such a child may be placed in a family or home for a period extending to its majority.³⁶⁵

The section was again amended in 1911, however, so as to read as follows:

If any person maliciously, forcibly, or fraudulently, take, decoy or entice away any child under the age of sixteen years with intent to detain, or conceal such child from its parents, guardian, or other person or institution having the lawful custody thereof, he shall be imprisoned in the penitentiary not more than ten (10) years, or be imprisoned in the county jail not more than one (1) year, or be fined not exceeding one thousand dollars (\$1,000.00).³⁶⁶

SOLDIERS AND SAILORS

During the past seventeen years the greater part of the legislation relating to the care and public sup-

port of soldiers and sailors has naturally been concerned with the management and control of the Soldiers' Home at Marshalltown.

The first question to be raised was in reference to the matter of support.²⁶⁷ In 1898 the \$13,000 appropriation for salaries and wages was discontinued. In place thereof, and to cover the whole expense of maintaining the home, the apportionment of ten dollars a month for each inmate was changed to fourteen dollars a month.²⁶⁸ Four years later "ten dollars per month for each officer and employe not a member of the home" was added.²⁶⁹ The amount of support for the home was again raised in 1907 and this time from fourteen dollars per member or inmate to fifteen dollars.²⁷⁰

The Thirty-fifth General Assembly (1913) provided that if the average number of members is less than eight hundred and fifty in any month, the home is to be accredited with \$12,750 for that month, in addition to the monthly allowance for each officer and employee. Fifteen hundred dollars was furthermore appropriated "for the purpose of increasing the support funds"; and "for the purpose of providing for the erection and improvement of buildings, for appurtenances and connections" of various institutions under the State Board of Control, a special tax of one-half mill on the dollar of the assessed valuation of the taxable property of the State was authorized to be levied annually for five years beginning in 1913.²⁷¹

In 1902 the commandant was given power to ap-

point such assistant surgeons as may from time to time be required, and they, together with the surgeon who had formerly been required to fulfill the qualification of being an honorably discharged Union soldier or sailor, were relieved from the restriction.²⁷² The necessity of removing such a qualification is obvious. In case of a vacancy occurring in the office of commandant, adjutant, quartermaster, or surgeon, and there is no suitable person with an honorable discharge from the United States army or navy available, it was made lawful in 1913 to appoint any other person otherwise properly qualified.²⁷³

With the growth of the institution the question of admittance has persistently demanded attention. Eligibility on the basis of services rendered and upon the proposition of self-support have been the two lines of development.

In 1906 the rule in regard to the admission of wives of soldiers, sailors, or marines was made to include widows of honorably discharged Union soldiers, sailors, or marines married before 1885 who had subsequent to 1885 married another honorably discharged Union soldier, sailor, or marine.²⁷⁴ Under the *Code of 1897* only those married couples were admitted who were married before 1885. Dependent fathers as well as widows, wives, and mothers of honorably discharged Union soldiers, sailors, and marines have been eligible to admission since 1909.²⁷⁵ The Thirty-fifth General Assembly rewrote the rules of admission, but the only change, besides a clearer statement, was in regard to women married to hon-

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orably discharged Union soldiers, sailors, and marines and that clause reads as follows:

Women who, prior to the year 1890, married honorably discharged union soldiers, sailors or marines, and who have ceased to be the wives of such soldiers, sailors or marines by reason of their death or because divorced from them without fault on the part of the wives, and a subsequent marriage shall not deprive such women of their right to the benefits of the home, nor shall such right depend upon the presence of the husband in the home as a member of it.²⁷⁶

A certificate, stating that the person applying for admission is a resident of a certain county, and signed by the board of supervisors of that county, must be filed with the officer in charge of the home. If an applicant is entitled to admission but is not a resident of the State, a record is made of the fact upon his admittance. The purpose of this procedure is to fix the liability of the county for the care of an inmate in case of insanity or any other condition for which the county may be held liable.²⁷⁷

Until 1909 only dependent persons were eligible to be admitted to the Iowa Soldiers' Home. But in that year an act was placed upon the statute books which allowed those eligible, except for being dependent, to enter the home and to pay for all or part of their support. They could remain as long as their presence did not exclude people having insufficient means. Those whose income did not exceed twenty dollars a month were not required to pay any of their pension for support, and if it did exceed twenty dollars a month, only that amount of the in-

come in excess which would cover the cost of support, provided there were no persons legally dependent upon the member, was required.²⁷⁸ This law, however, had been in force only four years when it was repealed and another substituted therefor, which omitted the provisions allowing members to contribute toward part of their support. No pension money from the United States government can any longer be taken for support in the home.²⁷⁹

Provision was made in 1900, however, that if a member of the home had been twice convicted of violating criminal statutes, of intoxication, or of other misdemeanors, all of his pension must be deposited with the commandant, to be paid out with the consent of the depositor for his necessary wants, and if such a member had a wife, child, or parent dependent upon him for support, one-half of his monthly pension had to be sent to such a person or persons. Upon the discharge of the member from the home the balance was to be given to him thirty days afterward.²⁸⁰

Two years later the phrase stipulating that deposited money was to be paid out "for the necessary wants" of the depositor was stricken out, and the law in regard to the support of dependent wives and minor children was rewritten, specifying that the wife must be dependent for support upon her own labor or that of others; while the commandant is made the judge to determine if the wife has deserted her husband, is of bad character, or is not dependent upon others for support. If such proves to be the

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case, the money accruing from one-half of a member's pension goes to the minor children and it is paid to their guardian rather than to the children themselves as the former law had provided.²⁸¹

The next General Assembly amended the pension regulations in case of intoxication so that in the event of a member abstaining for ten months he is allowed two dollars for the eleventh month and four dollars for the twelfth. Moreover, if he still conducts himself properly, at the end of twelve months the full right to control his pension money is granted to him as though he had never been convicted of intoxication.²⁸²

The law providing for the relief and burial of indigent soldiers and sailors as found in the *Code of 1897* has been much extended. The first step came in 1904 when not only United States soldiers and sailors who had engaged in the Civil War, but also those of the Mexican and Spanish-American wars were included.²⁸³ The wife or widow of an indigent soldier, sailor, or marine was added to the list by the Thirty-fourth General Assembly.²⁸⁴ In 1909 the tax limit for the raising of funds with which to relieve and bury indigent soldiers and sailors or their wives and widows was raised from one-half to one mill and the limit of burial expenses increased from thirty-five to fifty dollars.²⁸⁵ The soldiers' relief commission now holds its annual meeting on the second instead of the first Monday in September as provided in the *Code of 1897*.²⁸⁶

By the joint action of the commission and the

board of supervisors, part of the tax for the relief and burial of soldiers and sailors may be used to erect a monument in any cemetery of the county, "a portion of which has been set apart for the burial of Union soldiers, sailors and marines, in which there have been not less than fifty interments".²⁸⁷

In 1902 the law exempting homesteads of soldiers and sailors from taxation was rewritten to include those of soldiers and sailors of the Mexican War, with their widows, provided the latter should remain unmarried. The exemption from taxation no longer applied to homesteads alone but to any property, the sum of \$800 being exempted unless the privilege should be waived or the whole property of the soldier, or widow, or wife should amount to \$5000. The assessor was to turn over to the county auditor a list of persons subject to this exemption.²⁸⁸

Again in 1911 there was a rewriting of the law. This time the property value and exemption was raised from \$800 to \$1200 and the circumstance of the possession of \$5000 property value resulting in the forfeiture of any exemption was removed.²⁸⁹ Otherwise the act followed the wording of the previous law. But at the last session of the legislature (1913) it was provided that the \$1200 exemption should be made from the homestead of a soldier or widow if it is of that value and if not then from such property as is designated and owned by the soldier, sailor, or widow.²⁹⁰

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ORPHANS AND FRIENDLESS CHILDREN

While soldiers' orphans' homes have become practically an anachronism in the United States they still do good service as receiving homes for children awaiting placement in normal family relationships. The age limit at which a child shall be discharged from the Iowa Soldiers' Orphans' Home has, since 1897, been changed from fifteen to sixteen years. Other sections of the law were rewritten with the object of making them more specific. The *Code of 1897* stipulated that "all children of soldiers residents of the state" may be admitted, while the amendment denoted that they be "destitute". Similarly it was specified that destitute orphans of soldiers should apply to the board of trustees for admission (formerly application was not required of them) and "become wards of the state", but that other destitute children should apply to the judge of the district of the applicant's residence or to the board of supervisors of that county. It was further explained that counties were liable only for the support of those children who were not the children of soldiers.²⁹¹ It was not until 1906 that orphans of sailors and marines were admitted on the same conditions as those of soldiers.²⁹²

In the matter of support there has been considerable legislation.²⁹³ In 1904 the per capita support was raised from ten to twelve dollars, and the limit of the liability of the county for the support of children other than those of soldiers was placed at six dollars a month for each child, the cost above that

sum being paid by the State.²⁹⁴ In 1913 a minimum of \$6600 a month was established for the support of the home if the average attendance should fall below five hundred and fifty, and counties, in that event, were made liable only for their proportion of the amount accredited to the home — that is, the maximum amount of six dollars monthly for each child would be automatically reduced.²⁹⁵

The conditions of adoption and placing out of the inmates were amplified in 1906. The act provided that orphans in the home could be adopted out, and that the written consent of the parents or parent had to be obtained, unless the child had been abandoned by them. Orphan children or children who were abused, neglected, or abandoned before being committed to the home or were likely to be so treated if sent to their parents or guardian could be placed out by the superintendent with a family of good standing. The articles of agreement were to provide for the "custody, care, education, maintenance and earnings" of the child and, although the period was fixed, it could not extend beyond the time when the child should attain his or her majority. The Board of Control was empowered to remove an adopted or placed-out child, but persons other than the contracting parties could not interfere in any way.²⁹⁶

The regulations in regard to placing out by contract were repealed in 1911. The new act made all inmates of the home wards of the State and permitted the superintendent to place out any child regardless of conditions in its former home. A change

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which rendered the transaction more satisfactory was that whereby the Board of Control now gives its written approval to the articles of agreement rather than leaving the guarantee of justice dependent upon the fact that the superintendent has negotiated them.²⁹⁷

In 1902 the laws regulating homes for the friendless were repealed and a new act was passed which is more in accord with conditions.²⁹⁸ Now any society incorporated for that purpose may become the legal guardian of a friendless child with full powers in regard to control and adoption. Children may be surrendered by both parents jointly; by either if the other is dead, insane, a drunkard, in prison for crime, an inmate or keeper of a house of ill fame, or has abandoned the family; by the mother alone if the child is illegitimate; or by the mayor, a judge of a court of record, or a justice of the peace. Upon written complaint and evidence that any child is abandoned, ill treated, friendless, or living under bad influences, it may be taken and placed in a home. An appeal from such proceedings may be taken to the district court within twenty days. During the trial the child may be kept in custody by a peace officer. The society or person adopting the child must keep him or her in school between the ages of seven and fourteen and the former rule in regard to religious instruction still prevails.

The State Board of Control has supervision over all institutions coming under these provisions, with power to inspect them,²⁹⁹ and to require a complete

annual financial and statistical report of the children cared for. In 1909 the Board was also authorized to investigate all charges of abuse, neglect, or other misconduct which may be made against any such institutions.³⁰⁰ If the trust is abused the powers of the society or home may be revoked.

In order to prevent children with contagious or incurable diseases, deformities, feeble minds, vicious characters, or those likely to become public charges within five years, from being brought into the State by similar organizations incorporated in other States, such institutions must get the permission of the Board of Control and give an indemnity bond of \$1000.

XI

LEGISLATION CONCERNING DEFECTIVES

THE BLIND

Since the adoption of the *Code of 1897* the College for the Blind has had a varied career. When the State Board of Control assumed management it was placed in the category of charitable institutions. Later, however, partly because the authorities had always objected to it being classed as charitable, the college was placed under the jurisdiction of the State Board of Education. There have also been important changes in the manner of support.

Since 1909 all blind children, between the ages of twelve and nineteen, residents of the State, have been obliged to attend the college during the scholastic year unless bodily or mental conditions should prevent, or the child should be diseased or immoral to the extent of being a menace to the health and morals of the other pupils, or should be efficiently taught the common branches elsewhere during the scholastic year. A penalty of twenty-five dollars or eight days imprisonment was provided for anyone failing to educate such a person in the manner prescribed, for employing or harboring him during the school session, or for inducing such a person to absent himself or herself from school.³⁰¹ As a conse-

quence of these compulsory education requirements the college was two years later transferred from the jurisdiction of the Board of Control to that of the State Board of Education,³⁰² and thus officially placed among the educational institutions of the State.

The act creating the State Board of Education gives that body power to fix the salaries of the officers in the various institutions under its control,³⁰³ but when the College for the Blind was transferred, the law stipulating that the salary of the superintendent should be \$1200 a year³⁰⁴ was overlooked. The conflict was rectified in 1913 by repealing the law fixing the salary.³⁰⁵

The per capita appropriation of forty dollars a quarter to meet current expenses was reduced in 1898 to thirty-five.³⁰⁶ But in conformity with the system of support provided for similar State institutions, the two separate funds authorized in the *Code of 1897* were abolished in 1902, and all expenses, including the compensation of officers as well as general maintenance, were provided for by an appropriation at the rate of twenty-two dollars a month during nine months of the year for each pupil actually supported, based on the average number for the preceding month.³⁰⁷

Similarly, when a minimum total allowance was provided for other institutions in 1911, the College for the Blind was included, and if the average number of pupils for any month should fall below one hundred and sixty, the sum of \$3600 is appropriated

regardless of the enrollment. This money was originally to be paid out in accordance with the regulations applying to the Board of Control,³⁰⁸ but in 1913 the obvious inconsistency of such a procedure was remedied by making all annual appropriations to the College payable monthly on the order of the State Board of Education.³⁰⁹

When the meetings of the General Assembly came to be held in odd-numbered years, on account of a change in the system of State elections, it was necessary that the biennial report of the principal of the College for the Blind be made in even-numbered years.³¹⁰

Just two days after the approval of the measure making the education of blind people compulsory (1909), another act was approved which requires the assessor to record the name, age, sex, and address of each blind person within his jurisdiction. This data is then forwarded to the secretary of the State Board of Control within thirty days.³¹¹ While the information obtained is valuable in itself, it would seem that the act was intended to furnish a means of enforcing the compulsory education law. But since the College for the Blind has been placed under the control of the Board of Education, reports made to the Board of Control have been of little influence. The system is anomalous to say the least.

With the exception of the placing of the institution under the supervision of the State Board of Control and the fixing of the salary of the superintendent by statute at \$600 a year,³¹² the law regulat-

ing the operation of the Industrial Home for the Blind remained unchanged until 1900, when an act was passed authorizing the Board of Control to close the home. The Board was empowered to send the inmates to the places from which they came — paying their actual expenses and giving them each not more than twenty-five dollars for incidentals — hire a custodian to care for the premises, lease the land, dispose of all personal property about the place, and to turn all funds received into the State Treasury. An appropriation of \$3000 was made to accomplish this end and the remainder of all special appropriations was transferred to the general funds of the State.³¹³ Four years later the property was converted into the Hospital for Inebriates.

THE DEAF AND DUMB

Practically all of the legislation since 1897 in the interest of the School for the Deaf, with the exception of the act placing the institution under the Board of Control in 1898, has been in regard to financial matters. The appropriation for salaries was reduced in 1898 from \$21,000 to \$18,000.³¹⁴ Four years later, on the same day on which an act identical in its provisions but applying to the College for the Blind was approved, the two distinct appropriations were abandoned and provision was made for meeting all expenses from a fund appropriated at the ratio of twenty-two dollars a month during nine months of each year for each pupil supported in the school.³¹⁵ The method of certifying and paying

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charges for clothes and transportation held by the State against the county was technically changed in 1906, but in effect remained the same.³¹⁶

In 1909 provision was made whereby indigent and homeless pupils were to remain and be supported at the school during the whole year, and to meet this expense the per capita appropriation for such pupils was extended over the extra three months. The same General Assembly established a minimum annual appropriation for the School for the Deaf, as was done in the case of other institutions. In this instance, if the average number of pupils in any month should be less than two hundred and seventy-five, the school was to be accredited with the sum of \$6050.³¹⁷

By the same act which made it compulsory for blind persons between twelve and nineteen years of age to attend the College for the Blind during the scholastic year, deaf persons were required to attend the School for the Deaf for a like period.³¹⁸ The law authorizing the enumeration of the blind applies also to the deaf.³¹⁹ The School for the Deaf has not been placed under the control of the Board of Education, however, so that in this case the statistics reported to the Board of Control may be of some value.

The Thirty-fifth General Assembly provided that deaf and dumb persons between twenty-one and thirty-five years of age, or those so deaf that the securing of an education in a common school is impossible, may be admitted to the School for the Deaf with the

consent of the Board of Control. The tuition for non-residents of the State was raised to sixty-six dollars quarterly. Superintendents of common schools must now include, "so far as he [they] may ascertain", a list of the names of deaf and dumb persons between the ages of five and thirty-five, in their reports to the superintendent of the School for the Deaf.³²⁰

THE FEEBLE-MINDED

Experience has shown that a large proportion of feeble-minded children can not be developed so as to become independent members of society. It has also been demonstrated by the history of the Juke family and the Tribe of Ishmael that feeble-mindedness is inherited and that the chief source of feeble-mindedness is to be found in the unprotected feeble-minded girl. Wisdom, therefore, demands that provision should first be made for the segregation of this class of defectives in order to check the growing burden at its source.³²¹

There has been relatively little legislation since 1897 touching the operation of the Institution for Feeble-minded Children. The act creating the Board of Control required the superintendent to notify the Board whenever there was a question as to the propriety of a commitment or the retention of a patient already received. In 1898 the monthly allowance for support was raised from ten to twelve dollars for each pupil supported by the State and the appropriation for "ordinary" expenses was discontinued.³²²

The only other changes have been aimed at the enlargement of the scope of the institution. In 1902 feeble-minded women less than forty-six years old were admitted under the same conditions and rules of maintenance as children,²²³ and the same privilege was extended to feeble-minded men under forty-six years of age in 1909.²²⁴

THE INSANE

In Iowa during the past seventeen years the greatest development in governmental care of the insane has been along the line of aid outside of institutions and in the improvement and regulation of private and local hospitals by the State. In 1898 the "county insane fund" was found to be generally insufficient, and so the maximum tax rate for that purpose was raised from the one-half mill levy to one and one-half mills.²²⁵

Better provision for the maintenance of the families of insane persons was made in 1902 when the wife and all minor children were included rather than merely the "wife and children under fifteen years of age". It was also made possible to set aside sufficient property to support the family during the period of insanity rather than for only the first year.²²⁶

The most progressive step in private and county care of the insane was taken in 1900 when institutions of that character were placed under the jurisdiction of the State Board of Control.²²⁷ Indeed, this was the first step toward centralization in the

control of local charities. Semi-annual visitation by at least one member of the Board or by some disinterested, competent person, and thorough investigation of conditions with a report to the Board are required. The inspector, if not a member of the Board, may be allowed as compensation as much as five dollars a day and actual expenses. The sum of \$3000 was set aside for the inspection, but six years later the appropriation was changed to \$2000 annually and made to cover also the expense of inspecting associations, societies, and homes for friendless children. Every two years any surplus in the fund thus appropriated is to be returned to the State Treasury.³²⁸

At the time of these semi-annual inspections patients are allowed to be heard in any complaints or grievances they have to offer. In 1909, however, the Board of Control was empowered to "investigate charges of abuse, neglect or other misconduct" made against any private or county institution in which insane people are kept.³²⁹ Formerly, only the complaints of patients were investigated and no formal hearing was provided.

Upon the basis of the data furnished by the reports of the investigating committees, it becomes the duty of the Board of Control to make rules and regulations touching the care and treatment of the insane patients in private and county institutions. After a reasonable time if these requirements are not complied with, the patients kept in such places at public expense may be removed at the expense of the

county from which they were originally sent to the proper State hospital, or to such other private or county institutions as complied with the regulations. Persons supporting insane patients there at private expense are notified of the action taken.

If it is thought that any violent or acutely insane patient kept in a private or county institution at public expense may be better cared for in a State hospital, he may be removed there at the expense of the proper county. Up until 1913, if the written permission of the immediate relatives or, if there were none, of the commissioners of insanity of the county to which the patient was chargeable and of the Board of Control were obtained, a chronically insane person could be removed from a State hospital to a private or county institution of good standing. The Thirty-fifth General Assembly, however, decreed that if it is deemed desirable to remove from a State to a private or county institution any chronically insane patient sustained at public expense, the consent of the relatives or guardian need no longer be obtained and action may be taken upon the written request of the board of supervisors or of the commissioners of insanity of the county to which the patient is chargeable and the Board of Control. With inmates kept at private expense, however, the consent of the parents or guardian is still necessary,³³⁰ and in no case may a patient in a State hospital, who is not cured, be discharged without the consent of the Board of Control.

Should any difference of opinion arise between the

authorities in charge of the private or county hospitals for the insane and the Board of Control over the question of the removal of patients, the question is finally settled in the district court.

If a county has no facilities for the care of its insane, the commissioners of insanity may, with the consent of the board of supervisors and the Board of Control, provide for their care at any convenient private or county institution.

Private institutions must be able to show a certificate from the commissioners of insanity of some county in the State or from two reputable physicians (one a resident of Iowa) for each insane patient. The Board of Control may institute proceedings in the name of the State to ascertain if a sane person is being illegally restrained.

Besides the regulation of private and county institutions devoted to the care of the insane, many modifications in the laws governing the State hospitals have also been made during the last seventeen years. The act creating the Board of Control authorized the districting of the State, and all patients must be sent to the State hospital located in the district embracing the county from which they are admitted. The State Board of Control "by committee, or its secretary," must visit each hospital once a month, and if it should be deemed prudent, a woman residing within fifty miles of a State hospital may be appointed to visit that institution.³²¹

The names of the institutions were changed in 1902, omitting the term "insane" and prefixing the

word "State", so that now they are called the "Mount Pleasant State Hospital", the "Independence State Hospital", the "Clarinda State Hospital", and the "Cherokee State Hospital".³³³ This change of names is in accord with the movement in several States to encourage voluntary commitment in the early stages of mental and nervous disorder by removing the stigma too often attached to the sending of a person to an insane asylum. Some conception of the development of these various hospitals may be gained from the appropriations that have been made for their maintenance.³³³

The Twenty-ninth General Assembly declared that, in case of an appeal to the district court from the findings of the commissioners of insanity, it should be the duty of the county attorney, without additional compensation, to prosecute the action on behalf of the person alleging another to be insane.³³⁴ Since its creation the Board of Control has had permissive power to constitute itself a commission for the determination of the insanity of a person in a State hospital and, with the endorsement of the superintendent of that hospital, the Board may discharge any person not insane or one able to be cared for elsewhere without danger.³³⁵

The law relating to settlement has been revised and amplified in regard to patients admitted to State hospitals. The act creating the Board of Control stipulated that before county authorities should send to a State hospital for the insane a patient whose residence was unknown and who would be supported

there by the State, the Board of Control should be notified and should investigate the propriety of the commitment. Then if the residence of the patient was found to be in another State or county, the Board was to see that he was sent there or, if it were decided that he should be sent to a State hospital, his conveyance to that place was to be provided for. Superintendents of the State hospitals for the insane were also to notify the Board whenever there was a question as to the propriety of a commitment or the retention of a patient already received.³³⁶

But these provisions were rewritten in 1906 so as to cover the situation more adequately. When the commissioners of insanity find an insane person who is a non-resident of Iowa, or whose residence is unknown, they must notify the Board of Control, which thereupon investigates the case. If the person is found to be a non-resident of this State he may either be sent forthwith to the place of his legal residence or to a State hospital. Any non-resident patient in a State hospital may be removed to the place of his legal settlement at any time unless his condition forbids or for other reasons the Board deems it inexpedient. If the place of legal settlement can not be ascertained the patient may be taken to a State hospital, and if thereafter it is discovered that he has legal settlement in a county of Iowa, the costs of maintenance are charged to that county. No patient may be maintained in a State hospital at State expense without the formal order of the Board of

Control. Transfers to State hospitals or to places of legal residence may be made only upon the direction of the Board of Control and at State expense. It is preferable that employees of State hospitals should conduct the transfer of patients.³³⁷

Until 1907, in case there was a disagreement between the commissioners of a county from which an insane person had been committed to a State hospital and the auditor of the county which the commissioners alleged to be the one of his legal settlement,³³⁸ there was no method for the adjustment of the difficulty. The Thirty-second General Assembly, however, provided that if the auditor should find adversely to the decision of the commissioners, the case must forthwith be taken to the district court and decided. Should the commissioners delay longer than six months before appealing to the court, their county becomes liable for the support of the patient regardless of his legal settlement. If it is decided that a patient has residence in neither county the Board of Control is notified, and that body then proceeds in the same manner as in ordinary cases of non-residence.³³⁹

In the *Code of 1897* no arrangement was made for the payment of the expenses of the arrest, care, investigation, and commitment of an insane person in case he did not have legal settlement in the county where he was tried and found insane. This defect in the law was remedied in 1904 by making the county in which the person had legal settlement

liable; or, if the person had no legal settlement in Iowa, then the State was to pay the cost of arrest, care, investigation, and commitment.³⁴⁰

The passage of laws in 1906 and 1907 regulating the procedure in cases involving the trial and a commitment of non-resident insane has made it advisable to rewrite the law providing for the payment of the costs and expenses. Besides the expenses of "arrest, care, investigation and commitment. . . including the costs of appeal if an appeal be taken", the expenses of "quarterly support in a state hospital during the investigation, or time required to determine the residence of such person, also court costs in suit to determine the legal settlement of such patient" have been added. The words "upon investigation" have also been inserted, indicating that before the board of supervisors of a county charged with the legal settlement of an insane person need pay these "necessary and legal costs and expenses" the case must be investigated.³⁴¹

Unlike that of other State institutions for the care of unfortunate classes, the support of inmates of hospitals for the insane has been provided mainly by counties and from private sources. The rate charged for board and care, however, has been changed from time to time, as has been the case in the other State institutions. In 1898 the maximum monthly sum allowed for each patient was reduced from fourteen to twelve dollars at Mount Pleasant and Independence and to thirteen dollars at

Clarinda. Furthermore this amount was to be based on the "average number of patients in the respective hospitals for the preceding month."⁴²

Although the hospital for the insane at Cherokee, the establishment of which had been authorized in 1894,⁴³ was not ready for occupancy until August 15, 1902, the Twenty-eighth General Assembly established the maximum rate of thirteen dollars a month for the board and care of each patient. By the same act the rate for the hospital at Clarinda was reduced to the maximum of twelve dollars.⁴⁴ The next General Assembly placed the maximum monthly allowance for the Cherokee hospital at fifteen dollars a patient, but for the hospitals at Clarinda, Independence, and Mount Pleasant the rate remained at twelve dollars. The rate was still based on the average number of patients during the month previous, but in the case of the hospital at Cherokee if this average should exceed six hundred the allowance was to be automatically reduced to a maximum of fourteen dollars a month; if the average number of inmates exceeded seven hundred and fifty the allowance was to be thirteen dollars; and if it was over nine hundred, twelve dollars a patient for each month was all that could be obtained for support. When patients were supported by county or private funds, however, the amount required in excess of twelve dollars a month was to be met by the State. By this act \$8250 was appropriated for the support of the hospital at Cherokee during the first month of

its occupancy, and \$6000 was set aside to defray the expense of transferring patients to the new institution.³⁴⁵

Once more the monthly rate of support in the hospitals for the insane was changed, and since 1911 fourteen dollars a month for each patient has been granted to the hospitals at Mount Pleasant and Clarinda, while for the institutions at Independence and Cherokee the apportionment has been fifteen dollars. The scale for reduction in proportion to the number of inmates which was established for the hospital at Cherokee in 1902 was abolished on account of its superfluity.³⁴⁶

According to the *Code of 1897* the estates of patients or of persons legally bound to support them may be held liable by the counties for the support of inmates in the State hospitals. But inasmuch as such a system could not apply in the instance of non-resident patients an act was passed in 1911, specifically stating that the estates of all non-resident patients treated in the State hospitals and of all persons legally bound for the support of such patients were to be held liable by the State for the care, maintenance, and treatment of the patients.³⁴⁷ In 1906 the procedure in securing payment for the support of public patients was considerably changed as to detail, but in its general effects it remained the same as in the *Code of 1897*.³⁴⁸

The laws governing the return of inmates escaping from State hospitals for the insane have been greatly modified since 1897. The first amendment

(1904) allowed the necessary expenses incurred by the county commissioners of insanity in the capture and return of an insane patient to be paid directly from the State Treasury.⁵⁴⁹ The next General Assembly, however, repealed the whole statute relating to escape and substituted another, whereby the superintendent of a State hospital is given the entire responsibility for the return of escaped patients. His first duty is to cause immediate search, as formerly, but if the person can not be found, instead of notifying the commissioners of insanity of the county where the patient belongs, the clerk of the district court in that county is notified, and when the superintendent is informed, by the clerk or otherwise, of the location of the patient he must send some person, preferably an employee of the hospital, to return with the escaped inmate. The superintendent may, however, pursue a different course for good reasons approved by the Board of Control. In case of apparent necessity, local authorities may take the patient into custody and restrain him until he is taken away. Expenses of capture, restraint, and return to the hospital are paid out of the State Treasury after having been properly approved by the superintendent and the Board of Control.⁵⁵⁰

INEBRIATES

The only classes of defectives for which special State care has been provided since the adoption of the *Code of 1897* are inebriates and epileptics. Inebriates were the first to receive attention. In 1902 the Board of Control was authorized to provide a

department for "dipsomaniacs, inebriates and persons addicted to the excessive use of morphine or other narcotics" in one or more of the hospitals for the insane.³⁵¹ Such persons were to be tried before the district court in the county of their residence,³⁵² examined, and committed in the same manner as incorrigibles were examined and committed to the State Industrial School. For the first commitment, the term was to be between one and three years and for the second between two and five years. The expense of the trial, commitment, and treatment was to be borne and paid in the same manner as was provided for insane patients, and the estates of inebriates were to be held liable to the same extent as those of insane persons.

The Governor was given power to parole a patient after thirty days of treatment if he appeared to be cured and would pledge to refrain from the use of all intoxicating liquors as a beverage, or other narcotics, during the remainder of his term of commitment. To enforce such a pledge it was required that the paroled person should report his conduct to the Governor the first of each month, which report was to have the sanction of the clerk of the district court in the county where the person had residence. If the paroled inebriate should fail to make his report, the sheriff of the county, having been informed that such was the case, was to return him forthwith to the hospital, where he was to remain during the full term of his commitment.

But this system was retained only two years. The

Thirtieth General Assembly passed an act transforming the former Industrial Home for the Adult Blind at Knoxville, which had been abandoned in 1900, into a State Hospital for Inebriates.⁵⁵⁵ The purpose of this institution was the "detention, care, and treatment of all male dipsomaniacs, inebriates, and persons addicted to the excessive use of morphine, cocaine, or other narcotic drugs." Females similarly addicted were to be placed in a hospital for the insane to be designated by the State Board of Control. Those already in a department for inebriates in connection with any of the State hospitals might remain there. Otherwise they were to come under the provisions of the new act.

The hospital at Knoxville was placed under the jurisdiction of the Board of Control. A superintendent, qualified by being "a reputable physician", was to have immediate charge of the institution and was to be appointed by the Board for a term of four years at a salary of not to exceed \$2000 annually.

Application for commitment could be made to the judge of the district court by the inebriate himself, by his wife, a relative, guardian, or any other person. Unless the application was made by the inebriate himself the accused was to be given a hearing before the district judge and was to be allowed counsel. A formal trial in civil court could be demanded. If the accusation were established the person was to be committed to the hospital until cured, but not for a longer term than three years. At the time of the trial the facts concerning the previous history, con-

dition, and treatment of the accused were supposed to be discovered.

All costs and expenses incurred by the arrest, hearing, trial, and transportation were to be paid by the county and, in case the person was committed, could be recovered by the county from the patient. In payment for the care, treatment, and maintenance of each patient the hospital was allowed a maximum of twenty dollars a month, to be paid according to the method provided in the case of the State hospitals for the insane. But if the amount should be over fifteen dollars, the State was to pay the excess and it was not to be charged to any county or person. This act also declared that until the average number of patients each month should exceed two hundred, \$4000 a month, the maximum regular allowance for that number, was to be accredited to the institution. To defray the expenses of transferring the patients then in the inebriate hospitals connected with the hospitals for the insane the sum of \$4000 was appropriated. For the purchase of additional land, the erection of additional buildings, and the installation of proper equipment an additional sum of \$125,000 was set aside.

The superintendent was to establish rules and regulate the conduct of patients in the hospital. He was permitted to require them to do such work as was thought to be physically and mentally beneficial. Should a patient leave the grounds, without authority he might be imprisoned in the county jail for from thirty to ninety days, and if he should refuse

to work or if he should break any of the rules he might be punished, besides forfeiting his right to a parole. In case of escape the expense of recapture and recommitment was to be paid by the State. Confinement in the Hospital for Inebriates did not excuse a person from prosecution on account of offenses against the penal statutes of the State.

Anyone furnishing an inebriate, either in the Hospital for Inebriates, or in any insane hospital, with intoxicating liquor or narcotic drugs, except on written prescription from the superintendent, was to be held guilty of a felony and subject to a fine of from \$500 to \$1000 or to imprisonment in the penitentiary for from six to twelve months. And after a patient had been discharged as cured, for knowingly furnishing him intoxicating liquor or narcotic drugs without a written prescription of a reputable practicing physician, a person was to be held guilty of a misdemeanor punishable by a fine of from \$300 to \$1000 and imprisonment in the county jail until the fine was paid.

The superintendent was empowered to grant paroles whenever patients were thought to be cured. Paroled inmates of the Hospital for Inebriates were required to take a pledge agreeing to refrain from the use of intoxicating liquors and narcotics during the term of their commitment, and to avoid frequenting places and associations tending to lead them back to their old habits. They were to report to the superintendent through the clerk of the district court the first of every month and if they should fail to

report or to keep their pledge they were to be returned forthwith to the hospital at the expense of the State. A patient might also be paroled by the Board of Control for such a period and on such conditions as were deemed advisable if his physical condition became such that further confinement would be injurious to his health.

Should a patient in the Hospital for Inebriates become insane he was to be tried by the commissioners of insanity of Marion County and committed to a hospital for the insane if the charge were sustained. After being discharged from that institution he was still required to serve his term in the Hospital for Inebriates. The expense of such procedure was to be met by the Hospital for Inebriates in the first instance, but the county where the patient had his legal residence was eventually to reimburse the State.

While this act did not alter the provisions in the *Code of 1897* allowing the appointment by the district court of a guardian for the property and person of an habitual drunkard, it did supersede the section giving such a guardian the power to confine and restrain the person under his care. The other regulations as found in the *Code of 1897* remained unchanged: namely, that the guardianship could be terminated after six months, that property could be sold for the support of the ward or his family, that such a guardian was possessed of legal powers to act in the place of the person under his care, and that the priority of claim to guardianship went from the

legally appointed guardian to the husband or wife, next to the parents, and finally to the children.³⁵⁴ Neither were commitments made to hospitals for the insane under the previous act of 1902 to be affected until the Hospital for Inebriates should be ready for occupancy.

The Hospital for Inebriates thus established in 1904 was discovered to be so essential that the very next legislature was constrained to pass a law giving the Board of Control power to restrict, from time to time, the number of admissions on account of the lack of room. The clerks of the district courts were to be notified of that fact and no one was to be admitted except by the permission of the superintendent, and such admission was to be granted, in the order of the receipt of application, only when conditions should permit. Until such permission was received the order of commitment by the various courts was to be suspended.³⁵⁵ Admission was further restricted and safeguarded in 1907, when it was required that the person committed be not of bad character or repute aside from the habit for which the commitment was made, and that there be a reasonable chance of effecting a cure. The Board of Control was at the same time empowered to discharge any patient when it was thought that further hospital treatment would result in no substantial benefit.³⁵⁶

The method of paying for the support of inmates in the Hospital for Inebriates has always been identical with the system provided for the hospitals for

the insane, and consequently was affected in the same manner when the law was revised in 1906. The Thirty-first General Assembly also ordered that the costs of the prosecution and maintenance of an escaped inebriate should be paid out of the hospital support or contingent fund to the county in which the trial is held. Ten thousand dollars was appropriated for a sewage disposal plant and for additional water supply. If an inebriate confined in a State hospital is discharged or paroled and has not sufficient money to pay for transportation to the place from which he or she was committed, the hospital authorities may furnish transportation to that place, or to any other point not more distant if the patient desires.⁸⁸⁷

The expenses of the capture and return of paroled and escaped patients, and the costs of the hearing and return of insane patients to the Hospital for Inebriates were authorized by the original act to "be paid by said hospital" and "certified by the superintendent thereof to the auditor of state and the amount thereof . . . by him and by the treasurer of state credited to the support fund of said hospital". But since 1909 a much simpler and more satisfactory method has prevailed.⁸⁸⁸ The law was so amended that such expenses were to "be paid out of money in the state treasury not otherwise appropriated, on vouchers executed and approved as in other cases". It was further stated that the claims should be paid in the first place out of the hospital's contingent fund,⁸⁸⁹ and that the support

fund of the institution should be accredited at the beginning of each month with the amount expended during the one previous.

The Thirty-fourth General Assembly conferred the powers of peace officers upon the officers and employees of the Hospital for Inebriates in order that they might enforce the rules and regulations of the institution. They may quell riots or disturbances and make arrests without warrant.³⁶⁰

In 1913 it was found advisable to qualify the law in regard to the parole of inmates.³⁶¹ The superintendent is now empowered to parole a patient, not only when he is believed to be cured, but also if he is thought to have improved to the extent of making his release on trial expedient. Report blanks may be obtained either from the clerk of a superior court or the clerk of a district court and the report may be approved either by the clerk or the judge of the court making the commitment. If the patient has moved to another county, however, then only the clerk of the district court in the county of his actual residence has authority to approve reports, unless the necessity of obtaining such approval would work a hardship upon the patient, and in that event the superintendent of the hospital may designate some other public officer.

Another change was that which gave the superintendent power to parole patients into the care of a reliable and responsible person who is required to guarantee in writing to pay all expenses occasioned by the parole and by the patient's return if his

parole is violated.³⁶² Patients so paroled must take the same pledge, make the monthly reports, and be otherwise governed by the same provisions as govern any other paroled patients. This act applies to the female inebriate patients in the Mt. Pleasant Hospital for the Insane.

The last General Assembly created a custodial department in the hospital at Knoxville³⁶³ for the confinement of patients who are committed after having once been discharged, for habitual inebriates or drug habituates, and for those who are a menace to the maintenance of discipline. Inmates who escape from the institution may be put into this department by order of the superintendent. The habitual inebriates are kept in buildings or apartments separate from all other patients and are not allowed to associate with them any more than is absolutely necessary. The sum of twenty-five thousand dollars was appropriated for the erection of a custodial building. No patient may be released from the custodial department until the full term of three years has elapsed, but at the end of two years he may be transferred to another department and then becomes eligible to parole. This act, however, does not prohibit the parole of patients at any time if their health demands liberation from confinement.

Another new feature added by this law is the payment of seventy cents a day, after ninety consecutive days residence in the hospital and during good behavior, for each day of labor faithfully performed for the hospital. This sum is paid out of the gen-

eral support fund. Fifty cents goes toward the maintenance of the patient and the remaining twenty cents is sent monthly to any person or persons dependent upon him or, if there are none, it is paid to the patient himself upon his legal release.

EPILEPTICS

Epileptics were the second class of defectives to receive the attention of the Iowa legislature since 1897.

Suitable care for epileptics is important as a social measure, because it is recognized that the affliction is inherited, appearing in some form of defectiveness. About the only helpful treatment thus far discovered consists of suitable diet, regular habits, congenial environment, and proper recreation. It is a progressive disease accompanied by gradual deterioration of physical and mental powers from which there is slight hope of recovery. The colony plan of public care is, therefore, especially adapted to these unfortunates; but it is only in recent years that States have established institutions exclusively for epileptics.²²⁴

It was the Thirty-fifth General Assembly that authorized the establishment of a colony to which all adults afflicted with epilepsy, who have been residents of Iowa one year previous to application for admission, and all children so afflicted, whose parents fulfill the residence qualifications, may be admitted. The purpose of the institution is the "custody, care and treatment of epileptics and the scien-

tific study of epilepsy." The colony was placed under the supervision of the State Board of Control and that body was empowered to select a site as soon as funds should be provided by the State. It was to be "conveniently located with respect to railways and with regard to water supply and proper drainage, and shall be suitable for an institution on the colony plan for both male and female inmates."³⁶⁵

The necessary funds were provided by the special tax levy of one-half mill on the dollar of the assessed valuation of the taxable property of the State to be made annually for five years beginning in 1913, for the erection and improvement of buildings and for the purchase of appurtenances for all of the various State institutions under the Board of Control. Accordingly the Board set about choosing a site, and on March 6, 1914, voted to purchase a tract of land containing nine hundred and sixty acres near Woodward in Dallas County.³⁶⁶

ASEXUALIZATION

Eugenics — than which there is no movement for social betterment more widely known, yet so new as to have escaped a working definition — has both a positive and negative aspect. Studies in heredity have produced enough facts to prove that humanity is no exception to the general laws of biology; but positive eugenics is primarily a matter of education, and legislation which attempts to prescribe selective mating will prove more or less ineffectual until public sentiment in this regard has crystallized

into custom. Really effective work has been done, however, in a negative way whereby certain defective and degenerate persons are segregated or sterilized. For the vast majority it would seem that segregation is the more practical and effective method of preventing the propagation of their kind; yet sterilization may be advisable in some cases. Since Indiana led the way in 1907, thirteen States have passed sterilization laws applying to various classes of defectives and habitual criminals.³⁶⁷

The Thirty-fourth General Assembly passed the first sterilization law in Iowa to prevent the procreation of habitual criminals, idiots, feeble-minded, and insane persons.³⁶⁸ If the managing officer of any public institution of the State who had in his care such persons, consulting with the Board of Parole in the annual examination of the mental and physical condition of the inmates, should decide that the children of any of them would have a tendency toward "disease, crime, insanity, feeble-mindedness, idiocy or imbecility", and there was no hope of such an inmate improving sufficiently, or if the physical or mental condition of the inmate would be improved, or if an inmate was a moral or sexual pervert, an epileptic, or a syphilitic, the operations of vasectomy or ligation of the fallopian tubes were to be ordered. Inmates who had been convicted of prostitution or of detaining females against their will for prostitutional purposes, those twice convicted of some other sexual offense, or those three times convicted of a felony were to be also subject to

the operation. But a penalty of \$1000 fine or one year in the county jail was established for anyone who should "perform, encourage, assist in or otherwise promote the performance of either of the operations", or even have knowledge of them, unless they were performed under the provisions of the act or constituted a medical necessity.

This law, however, without having been utilized was repealed and rewritten by the Thirty-fifth General Assembly, its scope being broadened and the administration altered.⁸⁹⁹ The Board of Parole was given the initiative in determining who should be unsexed rather than the managing officers of the various institutions. This Board was "authorized and directed", in conference with the managing officers and physicians, annually or oftener to "examine into the mental and physical conditions, the records and family history of the inmates." If it should be thought that the children of any of them would be liable to "disease, deformity, crime, insanity, feeble-mindedness, idiocy, imbecility, epilepsy or alcoholism", or if any of the inmates might be improved mentally or physically thereby, or if any were epileptic or syphilitic, or if any should give evidence of being moral or sexual perverts, then the operations of vasectomy or ligation of the fallopian tubes might be ordered.

The list of those who might be required to submit to the operations was broadened. Soliciting was explicitly included as a sexual offense and the necessary number of convictions of felony was reduced

from three to two. The Board of Parole was required to make annual reports to the Governor, including observations and statistics regarding the benefits of the law.

The penalty for performing these operations, except as authorized by law, or as a medical necessity, was changed to a fine of not more than \$1000, imprisonment in the penitentiary for not more than one year, or both.

Syphilitics and epileptics were allowed to get permission from the Board of Parole or a judge of the district court to have the operation of vasectomy or ligation of the fallopian tubes performed upon themselves.

The first attempt to apply the sterilization law, however, brought a test case into the Federal court of the southern district of Iowa, and on June 24, 1914, Judge Smith McPherson rendered a decision declaring the act unconstitutional, null, and void in so far as it applies to persons twice convicted of a felony. The opinion was concurred in by Judge Walter I. Smith, United States Circuit Judge of the Eighth District, and Judge John C. Pollock, United States District Judge for the district of Kansas. The chief grounds for the decision were that the statute was in effect a bill of attainder, that it denied equal protection and due process of law, and that it provided cruel and unusual punishment.

XII

LEGISLATION CONCERNING DELINQUENTS

CRIMINALS

In 1909 the duty of reporting criminal statistics to the Governor was transferred to the Board of Parole, which had been created in 1907; and the report was to include a resumé of the work done by that Board. Consequently clerks of the district courts made their reports to the Boards of Parole, and the time was changed from the first Monday of November to the first Monday of July; while a complete account of the expenses involved in criminal trials was added to the content of such reports. The time for the filing of reports by county auditors was set at July 5th instead of October 15th, and sheriffs were also required to submit their calendars to the clerk of the district court by July 5th of each year.³⁷⁰

But in 1913 the time of filing of the reports of clerks of the district courts was deferred until July 15th, and it was required that the reports should include data on the number of acquittals and dismissals without trial, and on the crimes for which indictments were made in these cases. The county auditor must now include in his reports "all the items of criminal expenses which appear in the records of his office".³⁷¹

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In 1909 the penalty for escaping from jail was extended so as to apply to those who "escape from the custody of the officer" charged with their keeping.³⁷² The same General Assembly removed the restriction excusing able-bodied men over fifty years of age confined in jails from being required to perform hard labor, so that now the only requirement is that they be over eighteen.³⁷³

The law in the interest of female prisoners authorizing mayors in cities of 25,000 population or over to appoint two or more police matrons for each station-house was revised in 1898. The number of matrons was reduced to "one or more", but their appointment was made obligatory in cities of over 35,000 population.³⁷⁴ In 1907 these requirements were extended over cities acting under special charters.³⁷⁵

Another law relating to the confinement of women in jails, which was a step in the direction of proper treatment, was passed in 1911. A majority of the jails in Iowa are kept in a despicable condition, and are unfit for the occupancy of any person. It is perhaps for this reason, together with the consequent relief of the State from the expense of their keep, that women are now allowed to be committed to "any institution, society, association, corporation or organization having for its objects, in whole or in part, the furnishing of relief, care and assistance to the poor, dissolute, needy or unfortunate, or any other charitable or benevolent object", which is in the judicial district of the court making the commitment. The commitment is made for a term no long-

er than the corresponding jail sentence, and women may be removed from jails to such institutions for unexpired terms or returned therefrom to the proper jail at any time to complete there the unexpired term of the original commitment. Women in such an institution are under the control of the managing head of that institution and may be required to do any "reasonable, fit and proper labor" required by the manager, as the sole pay for their keep. The Board of Control has the right to visit any institution where a woman is imprisoned under this act, and if conditions in the institutions are found to be unsuitable, all persons so confined must be surrendered to the court making the commitment.³⁷⁶

PENITENTIARIES

Administration. — It is in connection with the penitentiaries that the greatest progress in the treatment of delinquents has been made in Iowa. On July 1, 1898, the general supervision of these institutions was transferred to the Board of Control. That body was also given power to appoint the wardens for terms of four years.³⁷⁷

When the women's department of the State Penitentiary at Anamosa was converted into the "Iowa industrial reformatory for females" in 1900 it was also placed under the supervision of the Board of Control. That Board was to appoint the chief executive officer and provide for as many other officers, to be appointed by the chief executive, as it deemed proper. The physician, chaplain, and storekeeper

of the penitentiary were to serve also in that capacity for the reformatory.³⁷⁸

In 1904 an act was passed providing for an assistant deputy warden for each penitentiary, whose duties were to act as deputy warden in the absence or inability of that officer, and to do anything else prescribed by the warden with the approval of the Board of Control. At the same time the assistant deputy warden at Anamosa was relieved of charge of the department for the insane. Of the two matrons, the salary of only the one at Anamosa was thereafter fixed by statute.³⁷⁹

In 1898 wardens were given the power to assign guards to any duty that might be necessary to properly conduct the business of the penitentiaries.³⁸⁰ The minimum number of guards, as established by the Thirty-second General Assembly, was to be forty-five at Fort Madison and forty-two at Anamosa.³⁸¹

But the greatest innovation in the management of criminal institutions came in 1907 when the penitentiary at Anamosa was converted into "The Reformatory", to be "the reformatory department of the state penitentiary of Iowa", and the indeterminate sentence was established. At that time a new piece of administrative machinery was created in the shape of the Board of Parole.³⁸²

The Board of Parole is composed of three members — one an attorney, and not more than two from the same political party — appointed by the Governor for a term of six years, one to retire every two years. Their office is at the capitol and four ses-

sions must be held every year. Compensation was originally ten dollars a day while on duty, but not exceeding a total amount of \$1000 a year. In 1911, however, the \$1000 limit was removed.³⁸³ A secretary is employed at a salary of \$2000 a year.

The Board has full charge of the granting of paroles and may establish such rules and regulations as it sees fit. It investigates applications and, when conditions warrant, makes recommendations for pardons. It is also supposed to assist in procuring the necessary employment with trustworthy employers for prisoners about to be paroled, and to render any assistance deemed necessary to the success of the parole system.

Some minor changes made during the last seventeen years in the law relating to the officers of the penitentiaries have been to give the deputy warden at Anamosa the use of the house occupied by the warden prior to 1898;³⁸⁴ to reduce the bonds of the wardens and clerks from \$50,000 to \$25,000 and from \$40,000 to \$20,000, respectively;³⁸⁵ to raise the salary of the physician at Fort Madison from fifty to seventy-five dollars a month;³⁸⁶ to classify the guards of the penitentiaries into three divisions "according to qualification, length of service, character of duties performed and general efficiency," the first to receive a maximum salary of sixty-five dollars a month, the second fifty-five, and the third fifty;³⁸⁷ to increase the salary of the chaplains from seventy to one hundred dollars a month;³⁸⁸ and to provide for an annual vacation of fifteen days with pay, for of-

ficers and guards, to be granted by the warden upon application if the officer or guard has been continuously employed in the penitentiary for a year.³⁸⁹

Support. — Since 1898 the system of support provided under the act creating the Board of Control has obtained. When the Reformatory for Women was authorized in 1900, an appropriation of fifteen dollars a month for each prisoner was provided to pay for the "support, care, maintenance, clothing, and transportation of the inmates of said reformatory, and for the purpose of maintaining the schools therein".³⁹⁰ Upon the recommendation of the Board of Control,³⁹¹ the Thirty-fifth General Assembly increased the monthly allowance for the support of each convict in the penitentiaries by two dollars, making the amount eleven dollars at Fort Madison and eleven dollars and fifty cents at Anamosa.³⁹²

Custody. — Until the establishment of the reformatory at Anamosa convicts, except the insane, were incarcerated in either penitentiary and under the same classification as to punishment.³⁹³ At that time, however, in order that the business of reform might be conducted under the most favorable circumstances, it was decreed that men between sixteen and thirty years of age, convicted of felony for the first time, should be committed to the reformatory unless the crime consists of murder, treason, sodomy, or incest. The court may, at its discretion, commit either to the reformatory or to the penitentiary,

any person convicted of "rape, robbery, or of breaking and entering a dwelling house in the night time with intent to commit a public offense therein". The department for the insane was to continue on the same status as formerly.

The Board of Control may transfer a male prisoner from Anamosa to Fort Madison for violation of the rules of the reformatory, for insubordination, or when he is not deemed a hopeful subject for the reformatory system. Prisoners may also be transferred to Fort Madison if it is discovered that they were over thirty years old at the time of the commitment, or have been convicted of felony for the second time. Those in the reformatory on July 4, 1907, who were convicted of murder in the first degree and those who were life prisoners, unless the latter were over fifty-five years of age, were to be transferred to Fort Madison. Whenever the number of inmates at Fort Madison exceeds the number of cells, and there is unoccupied room at Anamosa, the Board of Control may transfer to the reformatory the well-behaved and most promising convicts confined at the penitentiary for their first offense. All women convicted of felony and sentenced to confinement in the penitentiary have been sent to Anamosa since 1907.³⁹⁴

In its latest effort to correct the defects of character and training among criminals, the State of Iowa in 1913, following the example of Alabama, Florida, Massachusetts, Mississippi, New York,³⁹⁵

North Carolina, Rhode Island, and Texas, authorized a tax levy, of which a part should be expended in establishing a district custodial farm. This was in a sense the culmination of much legislation directed against the contract system of convict labor and attempting to provide in its place employment not only beneficial to the prisoners but non-competitive as well. The Board of Control signed a contract on November 12, 1914, to purchase seven hundred and eighty-two acres of the Flynn farm near Des Moines to be converted into a custodial farm for first and short-term prisoners. The contract was to become binding on the condition that the Chicago, Milwaukee, and St. Paul Railroad place a siding on the farm.³⁹⁶

In 1900 it was provided that girls between nine and sixteen years of age, who would otherwise be committed to the Industrial School for Girls at Mitchellville, could, at the discretion of the court, be sent to the Industrial Reformatory for Females at Anamosa. Unruly and incorrigible women and girls over fourteen years of age already at the Industrial School for Girls could be transferred to the reformatory.³⁹⁷

Sentence. — In 1902 a minimum penalty of twenty-five years in the penitentiary was established for habitual criminals, who were defined as those having been twice previously convicted, sentenced, and committed to prison for terms of not less than three

years each. If they have been pardoned at either of these times on account of being innocent, that incarceration is not considered as one of the two.⁵⁹⁸

For several years penologists and students of criminology had realized that in Iowa there was urgent need for a positive attitude in regard to penal institutions, that is, there was need for the establishment in this State of the tried and constructive principle that it is the duty of the government not only to deter members of society who are out of harmony with their environment, but at the same time to offer them the opportunity to reestablish themselves in normal relationships — being another application of the time-honored axiom that prevention is better than cure.

Accordingly, the Thirtieth General Assembly passed a joint resolution authorizing the appointment of a committee of three — one member from the Senate and two from the House — to investigate the Elmira reformatory system and the indeterminate sentence, and to report at the next meeting of the legislature. The sum of five hundred dollars was appropriated to cover the expenses of the committee.⁵⁹⁹

But the Thirty-first General Assembly took no action and it was left to the Thirty-second in 1907 to place the Indeterminate Sentences and Reformatory Act upon the statute books. While the work of reform within penal institutions has been significant, the indeterminate sentence and the parole system are the measures most indicative of the modern con-

ception that punishment should be corrective rather than vindictive. Being manifestly an instrument facilitating reform, the indeterminate sentence finds its justification in the proposition that no person can foretell the time which will be necessary to effect a moral and intellectual cure any more than the persistence of a physical malady can be predicted. The object, then, is to afford sufficient opportunity to secure a reformation and at the same time avoid burdening the State any longer than is necessary. It is also to be observed that a term of confinement determined by good conduct has the intrinsic value of encouraging personal exertion and self-control on the part of the convict. As a corollary to the indeterminate sentence the parole system has been employed in order that prisoners may be given a trial at right living before they are unconditionally returned to society. More recently the scheme of probation, which means the suspension of a sentence in the case of first offenders and a chance to mend their ways without the odium of prison confinement being attached to their name, has met with much favor and no little success.⁴⁰⁰

Since July 4, 1907, no sentence of any person over sixteen years of age, unless convicted of treason or murder, has been for a fixed term. The period of confinement, however, can not be longer than the maximum term provided by law for the punishment of the crime of which the person was convicted. Separate but continuous sentences are considered as one. If the felony is punishable by imprisonment

in the penitentiary, or by fine, or by imprisonment in the county jail, or both, then the operation of the indeterminate sentence law does not prohibit the court from exercising its discretion and imposing the lighter sentence.⁴⁰¹

In 1911 when the probation feature was adopted it was made possible for a trial judge to suspend the execution of a sentence if the person convicted was between sixteen and twenty-five years of age, if it was his first conviction of felony, and if the crime did not consist of treason, murder, rape, robbery, or arson. During such a suspension of sentence the convict is to be placed in the custody and care of some suitable person, a resident and citizen of Iowa, from whom monthly reports to the district court making the conviction, showing the whereabouts and conduct of the convict, are required. Such a suspension order is subject to revocation at any time and in that event the defendant is punished according to the judgment.⁴⁰²

An amendment was made in 1913 by adding the qualification that a pardon may be granted by the Governor, with such restrictions and limitations as he thinks proper, any time after the suspension of execution of the sentence is pronounced.⁴⁰³

Employment. — As has been previously noted, the *Code of 1897* authorizes the contracting out of prison labor only in the penitentiary at Fort Madison. Able-bodied male persons could be taken to Anamosa and there employed in the stone quarries and on con-

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struction work about the prison. When not otherwise employed the prisoners were to be set to work with hammers breaking refuse stone into pieces not more than two and one-half inches in diameter, and such stone was furnished free, except for transportation charges, to local authorities for use in the improvement of streets and highways.⁴⁰⁴

But with the passage of the act creating the State Board of Control in 1898 the contract restriction was apparently removed,⁴⁰⁵ for immediately a contract was entered into with the Anamosa Cooperage Company for the manufacture of butter tubs, pails, and barrels.⁴⁰⁶ The same year a contract for five years was made with the Iowa Button Company, employing prisoners at Fort Madison.⁴⁰⁷ The Twenty-eighth General Assembly, however, passed a law prohibiting the "manufacture for sale [of] any pearl buttons or butter tubs in the penitentiaries of this state" after the then existing contracts should expire.⁴⁰⁸

In 1902 the law relating primarily to the employment of prisoners in the State stone quarries adjacent to Anamosa was broadened, allowing able-bodied convicts to be sent either to Fort Madison or to Anamosa and "there confined and worked in places and buildings owned or leased by the state outside of the penitentiary enclosures".⁴⁰⁹ Thus the act legally extended the confines of the penitentiaries. It came as the result of a decision of the Supreme Court of Iowa that a prisoner concealing himself in a quarry and subsequently escaping was

not guilty of breaking and escaping from the penitentiary.⁴¹⁰

The establishment of the reformatory carried with it the proviso that inmates should be employed only on State account and that such employment should "be conducive to the teaching of useful trades and callings so far as practicable, and the intellectual and moral development of the inmates".⁴¹¹

The same year it became permissible to utilize convict labor in caring for the houses and premises occupied by the wardens, and for domestic service, but not more than two prisoners may be so used at any one time.⁴¹²

In 1913, legislation enacted obviously for the benefit of the penitentiary and reformatory made it possible for able-bodied male prisoners in the penal institutions of the State to be employed on highways and public works.⁴¹³ The labor, however, is not to be leased to contractors nor are any prisoners allowed to be so employed whose character and disposition make it probable that they would try to escape, become unruly, or break the law. If the health of the prisoner is liable to be injured, or if he objects to the work, he can not be required to do it. Prisoners working on the roads or public works are under the custody of the warden of their institution, even though they may be controlled by the honor system, and he designates the necessary guards and officers to go with them. It is the duty of the warden and the Board of Control to prescribe the conditions and manner of keeping and caring for the

prisoners while they are away. Conspicuous or ridiculous clothing is not allowed to be worn. For the violation of any rules, for lack of industry, for acts of immorality, or if likely to escape a prisoner may be summarily returned to the prison.

Work on the highways is under the supervision of the State Highway Commission, but the county board of supervisors or other local officials make the terms of the contract with the Board of Control. The State is paid a certain compensation for this labor, and the prisoners are allowed such part of their earnings, over the cost of maintenance, as is deemed equitable. A part of the amount thus earned may be deducted and sent to the family or persons dependent upon the convict and the rest, except what is allowed for current expenses, is deposited in the bank and given to the prisoner on his release.

An odious and obsolete requirement was abolished when the Thirty-fifth General Assembly struck out of the law in the *Code of 1897* relating to stone-breaking, the clause, "with hammers into pieces of not more than two and one-half inches in diameter".¹¹⁴

Treatment. — The spirit of reform has done much to temper the treatment of criminals, so that the plight of the convict is far from being as hard as it once was. It is, however, essential to understand that the abolition of customs savoring of barbarity and the installation of humanitarian measures have

been brought about not out of idle sentiment but because of the healthful effect or the mentally or morally elevating influence on the prisoner.

Since the adoption of the *Code of 1897* the use of fees from visitors has been a subject difficult of satisfactory determination. In 1900, seventy-five percent of such receipts was authorized to be spent for the purchase of books and periodicals and twenty-five percent for lectures, concerts, or entertainments for the prisoners.⁴¹⁵

Evidently the public was more curious than was anticipated, for in 1904 the law was changed to the effect that such funds might be used to buy books and periodicals for other State institutions under the Board of Control as well, and the proportion to be used for lectures, concerts, or entertainments for the prisoners could be reduced to ten percent at the discretion of the Board of Control.⁴¹⁶ But this arrangement did not work to good advantage and since 1913 the money collected from visitors in the penitentiary and reformatory has been applied "in the purchase of books, periodicals, newspapers, and furniture and furnishings for library and reading rooms, and for lectures, concerts and other entertainments and musical instruments and musical supplies for the institution for which it was collected." If there is a surplus it is transferred to the support fund.⁴¹⁷

In the Iowa Industrial Reformatory for Females, which has not yet been opened, each inmate is to be "instructed in piety and morality, and in such

branches of useful knowledge as are adapted to her age and capacity, and in some regular course of labor, as is best suited to her age, strength, disposition, and capacity, and as promises best to secure the reformation and future well-being of the inmate, and to that end the board of control is authorized to establish, and cause to be operated, in such institutions, schools for education and industrial training".⁴¹⁸

The Board of Control has been assigned the duty of seeing to it that wardens provide "adequate and ready" means of protection against fire, construct proper means of escape, and enforce rigid rules and regulations in order to minimize the danger of fire.⁴¹⁹

Besides what is required in the statutes, the Board of Control and wardens have made rules and regulations tending to better the condition of the prisoners. A good instance is furnished by the cessation of the issue of tobacco rations and the substitution of butter instead.⁴²⁰

Escape. — As the system of parole and convict labor outside of the prison walls has in effect extended the confines of these institutions, the laws defining escape have also been revised so that there need be no actual breaking nor even the presence of an officer. The limits of the penitentiary have been made to legally include places and buildings owned or leased outside of the penitentiary enclosures, or public roads used in going to and from such places

of employment, so that an escape from these places could be regarded as prison breach also.⁴²¹ Provision was made in 1900 that the costs and fees of prosecution should be paid by the State if the prosecution fails, or if they can not be collected from the person liable to pay them.⁴²²

These rules were finally revised in 1913 to bring them into harmony with the laws allowing prisoners to be used on the highways, the reformatory system, and the method of parole. Now a prisoner is considered to have escaped from the penitentiary or reformatory if he leaves without authority any place whatsoever in which he is placed and "it is not necessary that the prisoner be within any walls or enclosure nor that there shall be any actual breaking nor that he be in the presence or actual custody of any officer or other person." Even if a person on parole should leave the territory within which the terms of the parole restrict him without the written consent of the Board of Parole, or if he violates any other condition of his parole, he is deemed to have escaped.⁴²³ The penalty for escape has remained the same.

In 1904 an act was passed making it an offense against public justice, punishable by imprisonment in the penitentiary for not more than five years, to pass in or attempt to pass in to any penitentiary, reformatory, or grounds or places used in connection therewith, any opium, morphine, cocaine, or other narcotic or any intoxicating liquor, or any firearm, weapon or explosive, or any rope, ladder, or other

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device for making an escape.⁴²⁴ This law was made more inclusive in 1913 by making it an offense punishable by imprisonment in the penitentiary or reformatory for not more than five years, or by a fine of from \$100 to \$1000, to place any drugs, liquors, weapons, or explosives where they are likely to be found by prisoners.⁴²⁵ In both laws it was provided that the finding of any of the above articles in these places was to be considered presumptive evidence that they were there for the prisoners.

Parole and Pardon. — While the Governor has always been privileged to grant reprieves, pardons, or commutations of sentence⁴²⁶ the first intimation of a system of parole for adult criminal offenders appeared in 1900 when the Iowa Industrial Reformatory for Females was established by law. At that time the Board of Control was given power to order the parole of an inmate for "good conduct and for proficiency in studies".⁴²⁷ It is to be remembered, however, that this institution has not yet been put into operation and now the Board of Parole created in 1907 would have jurisdiction. That body may establish rules and regulations under which paroles may be granted by it to prisoners in the penitentiaries, except to those serving life terms.⁴²⁸ It is the duty of the clerk of the district court making the commitment to furnish data to the Board of Parole concerning the trial and facts discovered at that time which may guide it in the parole of convicts. A parole enables the prisoner to go outside of the

enclosure of the penitentiary, but does not release him from legal custody and he may be re-imprisoned at any time. No prisoners can be paroled until arrangements have been made for their employment or maintenance for at least six months. It is the duty of peace officers to assist in returning paroled prisoners when so authorized. If the terms of the parole are violated the time during which the convict is absent does not apply on his sentence.

Unless provided for in their rules the Board of Parole may not receive unsolicited a petition for parole. When sent out on parole, a prisoner is to be furnished with clothing, money, and transportation as if he were discharged, but if he is discharged while on parole then no further aid is given.⁴²⁹ Since 1909 the Board of Parole, upon the recommendation of the trial judge and the county attorney, has been able to parole, after conviction and before commitment, persons not previously convicted of a felony, thereby appreciably extending the system of probation.⁴³⁰

When the Board of Parole was created it became one of its duties to investigate all applications for pardon, under the direction of the Governor. Unless it is provided for in the adopted rules of the Board of Parole, however, that body may not receive unsolicited any petition, communication, or argument in regard to a pardon. It is likewise the duty of the Board of Parole to keep in touch with paroled convicts and if one has served twelve months of his parole acceptably, and promises well for the future,

the Board may recommend his release from the rest of his sentence.⁴³¹

This arrangement rendered antiquated the system of laying before the General Assembly the proposition of pardoning first degree murder convicts, so that in 1911 the same process was made to apply to the Board of Parole instead of the legislature.⁴³²

JUVENILE DELINQUENTS

The Juvenile Court. — Simultaneous with the development of a constructive attitude toward other offenders, the treatment of juvenile delinquents began to receive proportional attention. As the establishment of the New York House of Refuge in 1825 for the custody of juvenile offenders had introduced a new era so the enactment of the Illinois juvenile court law in 1899 proclaimed another epoch in the treatment of juveniles. Not only were they to be no longer punished as criminals, but their trial was to be conducted according to civil procedure, not criminal, and the State was henceforth to be "for Jimmie Jones" not against him. The rapid extension of this institution of such far-reaching importance — for within ten years juvenile courts were in operation in thirty-one States — is ample demonstration of the soundness of the principle upon which it rests.⁴³³

In Iowa the juvenile court was established in 1904.⁴³⁴ At that time the district court was "clothed with original and full jurisdiction" to sit on cases involving children under sixteen years of age not in

an institution or charged with the commission of offenses punishable with life imprisonment or death, and any such case appearing in a justice of the peace or police court must be at once transferred. The juvenile court is open at all times for business, but cases requiring notice and a definite place of trial must be held in term time or at such time and place as the judge may appoint.

For juvenile court purposes a dependent or neglected child is defined as one who is "destitute or homeless or abandoned; or dependent upon the public for support; or who has not proper parental care or guardianship; or who habitually begs or receives alms; or who is found living in any house of ill fame, or with any vicious or disreputable person; or whose home, by reason of neglect, cruelty or depravity on the part of its parents or guardian or other person in whose care it may be, is an unfit place for such child; and any child under the age of ten years, who is found begging, or giving any public entertainment upon the street for pecuniary gain for self or another; or who accompanies or is used in aid of any person so doing; or who, by reason of other vicious, base or corrupting surroundings, is, in the opinion of the court, within the spirit of this act."

A delinquent child is one under the age of sixteen years who "violates any law of this state, or any city or village ordinance; or who is incorrigible; or who knowingly associates with thieves, vicious or immoral persons, or who is growing up in idleness or crime; or who knowingly frequents a house of ill

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fame; or who patronizes any policy shop or place where any gaming device is, or shall be operated; or who habitually wanders about any railroad yards or tracks, gets upon any moving train or enters any car or engine without lawful authority."

In order that the court should be of still more practical value the act provided for the appointment of "one or more discreet persons of good character" to serve as probation officers, without public compensation. It is their duty to investigate cases brought before the court, represent the interests of the child on trial, furnish information and assistance to the judge, and take charge of the child before and after trial if so directed by the court.

Any reputable person, a resident of the county, may file with the clerk of the district court a petition in writing setting forth that a child is dependent, neglected, or delinquent. Thereupon the person having control of the child is summoned to appear before the court with the child, and failing to do so may be held for contempt of court. A warrant may be issued for the child if necessary. A relative or some other person suitable to act in behalf of the child is notified of the proceedings. If the child is tried in a summary manner all persons not necessary to the hearing of the case may be excluded, but the probation officer must be present at all hearings.

If the child is brought before the court charged with the commission of a crime not punishable by death or life imprisonment, on demand he must be given a trial for the commission of the offense, and

if the penalty for such an offense exceeds a fine of one hundred dollars or imprisonment for thirty days the court must make a preliminary examination, according to the rules for such an examination before a magistrate.⁴⁸⁵ If the child can not give bail he may be detained with the person in charge of him or kept in a suitable place provided by the city or county, but no court or magistrate may commit a child under sixteen to a jail or police station. If the case is such that it may not be tried on indictment a peace officer may be instructed to file information against the child and the court then proceeds to try the case before a jury of twelve men. The same rules govern such a trial as prevail in the district court.

When a child is found guilty of a crime not punishable by life imprisonment or death the juvenile court may exercise discretionary powers as to conviction. A dependent or neglected child may be committed either to a suitable State institution, to the care of some reputable citizen, to some association whose purpose it is to care for dependent and neglected children, or when the health of the child requires, to some hospital for treatment. In case the child is committed to the care of an association or individual he becomes a ward of that association or individual and may be adopted out or placed out with or without indenture. Any person having control of a dependent or neglected child may enter into an agreement with an association or institution whereby such an association or institution assumes the same relation toward the child as though the

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court had formally committed the child without such an agreement.

In the case of a delinquent child commitment may be made to the child's own home or to that of some suitable family subject to the custody of the probation officer, to whom periodic reports must be made, and subject to hearings before the juvenile court from time to time; or the commitment may be to an industrial school, to any institution in the county that may care for delinquent children, to a State institution for delinquent children over ten years of age, or to any association caring for dependent or neglected children that will consent to receive the child. No term of commitment may extend beyond majority. The child may be paroled from institutions for delinquent children by the board of managers and discharged therefrom by the court. In committing a child the court is to place it so far as practicable with an individual or association having the same religious belief as that of the parents of the child.

If upon investigation the parents of a dependent, neglected, or delinquent child are found to be able to support it, the court may enforce an order obliging them to do so.

The act placed all institutions and associations having charge of juveniles under the supervision of the State Board of Control and provided that the juvenile court and these institutions should make annual reports to the Board.

Since the original law was passed there has been

some change in the courts having jurisdiction over juveniles. In 1909 superior courts in cities were given concurrent jurisdiction with the district court in that county. The only difference is that in superior courts a jury trial is held before six instead of twelve jurors.⁴³⁶ When the law relating to the punishment of contributory dependency was passed, the duty of the juvenile court to investigate and enforce the care of a child by a parent or persons in *loco parentis* was made more explicit and mandatory. It may now aid a parent in the "care, custody, maintenance, education, medical treatment and discipline" of a child if it is deemed necessary.⁴³⁷ A new feature was also added in connection with the juvenile court law in 1907 when, in counties having a population of over 50,000,⁴³⁸ the board of supervisors was instructed to provide a suitable detention home and school for dependent, neglected, and delinquent children.⁴³⁹

On account of these changes the importance and duties of the probation officers were increased. In 1907 the district court in a county having a population of over 50,000 was given authority to appoint not more than two persons as probation officers. They were vested with all the powers and authority of sheriffs and allowed a maximum salary of seventy-five dollars a month and expenses while on duty. In order to provide the detention home and pay the probation officers, these counties were empowered to levy an additional tax of one mill on the dollar.⁴⁴⁰ When superior courts were given juvenile

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court jurisdiction it was provided that the regular probation officer for the district court should act for the superior court when it was located at the county seat. But if the superior court is located in a city other than the county seat and in a county of over 50,000 population ⁴⁴¹ then the judge may appoint a probation officer with the same powers and compensation as those of the probation officers of the district court in such a county.⁴⁴² Since 1911 district courts acting as juvenile courts in counties of over 50,000 population have been allowed to appoint as many as four probation officers.⁴⁴³

Industrial Schools. — Ever since the establishment of the department for girls at Mitchellville in connection with the Industrial School that school has really been made up of two separate institutions (one at Eldora and the other at Mitchellville), and in recognition of this fact the Thirty-fifth General Assembly declared them to be "separate and distinct", giving them the names Iowa Industrial School for Boys and Iowa Industrial School for Girls.⁴⁴⁴ The institution was of course transferred to the jurisdiction of the Board of Control in 1898, and consequently in the acts of the following General Assembly there are to be found several amendments and repeals in respect to administration. Since 1900 the superintendent has reported to the Board of Control annually or upon request.⁴⁴⁵

In accordance with the system employed since the Board of Control has been in existence, the *Code of*

1897 was amended in 1900 giving the superintendent power to appoint subordinate officers and removing the requirements that he should give bond and keep the books and records of the institution.⁴⁴⁶ He still is required to "discipline, govern, instruct, employ, and use his best endeavors to reform the pupils in his care, so that, while preserving their health, he may promote, as far as possible, moral, religious and industrious habits, regular, thorough and progressive improvement in their studies, trade and employment." ⁴⁴⁷

In 1898 the term "majority" was changed to twenty-one in reference to the age up to which a child could be retained in the Industrial School,⁴⁴⁸ but upon the recommendation of the Board of Control in 1899 ⁴⁴⁹ the former limit was restored, thus fixing the age of discharge at eighteen for girls and twenty-one for boys.⁴⁵⁰ The very next General Assembly, however, reestablished the age limit at twenty-one for both boys and girls,⁴⁵¹ and so it has remained.

The ages between which a child could be committed to the Industrial School for crime were changed in 1900 from seven and sixteen to nine and sixteen; and at the same time married women, prostitutes, or any pregnant girls, eligible on account of crime, were excluded. In the case of children voluntarily committed, age limits were prescribed for the first time and were set at seven and sixteen.⁴⁵² Six years later girls aged from nine to eighteen were allowed to be committed if on account of crime ⁴⁵³ and criminal boys between nine and eighteen years of age have

been eligible since 1909. At this time the age limit of sixteen for children voluntarily committed was also raised to eighteen for both boys and girls.⁴⁵⁴

In 1911 the law dealing with commitment was repealed and rewritten. Now the age limits between which a child may be sent to either Industrial School are ten and eighteen, whether on account of crime or for voluntary confinement. With all commitments, the judge must send a statement of the nature of the complaint, the date of birth, the habits and environment of the accused, arrests for misconduct, influence and conduct of the members of the family, the substance of the evidence, and such other particulars as have been ascertained. Neither is it any longer possible for married women, prostitutes, and pregnant girls to enter the Industrial School through voluntary commitment.⁴⁵⁵

Primarily to furnish a place for such women and girls the same General Assembly provided that such a girl of the right age to be sent to the Industrial School could instead be placed in any reputable institution in Iowa devoted to the detention and reformation of wayward and fallen girls, having regard as far as possible for the religious belief of the parents. Such an institution thereafter is subject to supervision by the Board of Control and must make annual reports to the Governor.⁴⁵⁶

In 1906 the law in the *Code of 1897* allowing boys and girls in the Industrial School to be bound out⁴⁵⁷ was repealed and rewritten. In order to protect children from being returned at the end of their

term to influences and treatment "tending to induce them to lead dissolute, immoral or vicious lives," the superintendent, with the consent of the Board of Control, was empowered to bind such children out until they reached the age of majority. The articles of agreement, signed by the superintendent and the parties taking the children, and approved by the Board of Control, were to "provide for their custody, care, education, maintenance and earnings". In case these conditions were not fulfilled the child might be removed by the Board of Control, but other persons not a party to the agreement could assume or exercise no control over the child or its earnings, which were to be used exclusively for the benefit of the child.⁴⁵⁸ Should legal proceedings become necessary to enforce these provisions it devolved upon the county attorney in the county where such action was instituted to act in behalf of the superintendent at his request.⁴⁵⁹

Again in 1911 the section was repealed and rewritten but the only changes were to make it possible for the superintendent to bind out until they reach their majority, not only children who upon discharge will return to a bad environment, but any child committed to the school; and to present a clearer statement of what may be done with a child in case the provisions of the agreement of indenture are violated.⁴⁶⁰

The power was given to the Board of Control in 1900 to return all unruly or detrimental inmates of the Industrial School, whether convicted of crime or not, to the county from which they came, where pro-

ceedings were to be resumed as though commitment had never been made.⁴⁶¹ The Twenty-ninth General Assembly, however, gave the Board of Control power ⁴⁶² in exceptional cases to "discharge or parole inmates without regard to the length of their service or conduct, when satisfied that the reasons therefor are urgent and sufficient."⁴⁶³

In regard to escape the *Code of 1897* provided that "Whosoever unlawfully aids or assists any inmate lawfully committed to the industrial school in escaping or attempting to escape therefrom, or knowingly conceals such inmate after escape, shall be punished by a fine not exceeding one thousand dollars, or imprisonment in the penitentiary not exceeding five years."⁴⁶⁴ While this section has never been repealed or amended it would seem that it has been superseded and made more inclusive by the law passed in 1913 ⁴⁶⁵ making the penalty for bringing drugs, liquors, weapons, or articles designed to aid escapes into either Industrial School of the State a maximum term of five years in the penitentiary.⁴⁶⁶

The Twenty-seventh General Assembly reduced the per capita allowance for support to nine and ten dollars a month, respectively, for boys and girls.⁴⁶⁷ The Twenty-eighth General Assembly changed the method of drawing the support fund in order to harmonize it with the system employed under the Board of Control, and raised the monthly allowance for girls from ten to twelve dollars.⁴⁶⁸ The Twenty-ninth General Assembly increased the monthly apportionment for boys to ten dollars; ⁴⁶⁹ while the

Thirtieth General Assembly made the support fund for girls thirteen dollars apiece for each month.⁴⁷⁰

But the height of the monthly proportion of support for each child was reached in 1906 when the Thirty-first General Assembly placed it at thirteen dollars for boys and sixteen dollars for girls. The same act provided that when the average number of boys should fall below five hundred in any one month that department should be accredited with \$5500; and when the average number of girls was less than two hundred during any month that department should receive \$3000. Also the sums of \$1000 and \$400 were appropriated to be used for dental work in the boys' and girls' departments respectively.⁴⁷¹

In 1911 the law was changed so that if the average number of boys in any month should fall below four hundred and seventy the department would be accredited with \$6100; and for the girls' department if the number of inmates should fall below two hundred and twenty-five \$3600 was to be appropriated.⁴⁷² The same General Assembly made it possible for girls to be committed to institutions whose purpose it was to detain and reform wayward and fallen girls, and provision was made that such institutions should be paid the regular monthly allowance of sixteen dollars for the support of each girl by the county where she had legal settlement.⁴⁷³

Once more the minimum monthly fund was changed so that if the average number of boys any month should be less than four hundred and eighty the school for boys is accredited with \$6240; and if the average of girls any month should be less than

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two hundred and thirty-five that school is given \$3760 regardless of the number of inmates.⁴⁷⁴

Before 1898 the salaries of the officers in the Industrial School were determined by the board of trustees, but the Twenty-seventh General Assembly by statute established a salary of \$1800 a year for the superintendent at Eldora and a stipend of \$1200 a year for the superintendent at Mitchellville.⁴⁷⁵ The next General Assembly appropriated \$350, or twelve dollars and fifty cents a month for the twenty-eight months ending June 30, 1902, to pay for the services of chaplains in the department of the Industrial School for girls.⁴⁷⁶ In 1906 the salary of the superintendent of the department for girls was raised from \$1200 to \$1800.⁴⁷⁷

VAGRANTS

The definition of vagrants was rewritten in 1911 describing the class a little more exactly. The first clause was made to read: "All common prostitutes and keepers of bawdy houses or houses for the resort of common prostitutes". Persons wandering about with no visible means of maintenance were further defined as those "lodging in barns, outbuildings, tents, wagons or other vehicles". Instead of "procuring", the law now reads "inducing" children or others to beg. Those "representing themselves" as collectors of alms for charitable institutions under fraudulent pretenses are vagrants.⁴⁷⁸ "All persons camping on any public highway for the purpose of trading horses" were included as vagrants by a law passed in 1913.⁴⁷⁹

XIII

LEGISLATION CONCERNING PENSIONERS

Turning now from those classes of persons with whom the receipt of aid or care from the public bears a sting of reproach to a class to whom such aid is given rather as an evidence of honor and respect — namely, those persons known as pensioners — it is found that, aside from the soldiers and sailors who are rewarded by the Federal government, mention of this class is conspicuous by its absence in the *Code of 1897*. The only State legislation in force at that time referred to the pensions granted by the United States. Such pensions, pensions granted by any of the several States, “or salaries, or payments expected for services to be rendered”, were not subject to taxation.⁴⁸⁰ Neither was any money received as a pension from the United States government, nor any homestead of a pensioner purchased with such pension money, subject to execution, even for debts contracted prior to the purchase of the homestead.⁴⁸¹ Since the adoption of the Code the only regulation of Federal pensions has been in connection with the inmates of the Soldiers’ Home.

Since the idea of providing pensions from public funds for certain dependent classes has found firm lodgment in the United States many varieties of pen-

sion legislation may be expected. At present the schemes for retirement of superannuated public employees usually partake of the nature of insurance, each employee being compelled to provide, at least in part, against old age by contributions from his salary. Illinois and Massachusetts have systems for pensioning employees of the Commonwealth and California and Wisconsin are investigating the subject. Some States grant pensions to the blind; and several, like Iowa, authorize cities to provide for the retirement of firemen and policemen on pensions. In twenty-four States there are either State-wide pension systems for teachers (New Jersey, Maryland, and Rhode Island without contributions), or municipalities or districts have been directed to pay retiring allowances. The State Teachers' Association of Iowa will present a bill to the Thirty-sixth General Assembly providing for a State-wide system of the compulsory, contribution type.⁴⁸²

Indeed, it was not until 1909 that Iowa — among the foremost States in recognizing the justice of rewarding a servant for service the doing of which had rendered him incapable of self-support later in life and of meeting the obligation by pecuniary recompense ⁴⁸³— authorized pensions to be granted from public funds. In that year it was made possible to retire both firemen ⁴⁸⁴ and policemen ⁴⁸⁵ from service on pensions. Both these acts are identical in the method of awarding the pensions, the amount of the tax levy, the monthly allowance, and in all points which the two occupations possess in common.

Since the establishment of firemen's and policemen's pensions, however, amendments have somewhat modified their similarity.

FIREMEN

All cities and towns, including those governed under special charters, if they have an organized fire department may, and if it is a paid company, must, levy a one-half mill tax annually on all taxable property in the city or town in order to create a firemen's pension fund. This fund may be augmented by gifts, grants, donations, devises, and bequests, and by fees or emoluments except personal rewards, membership, and annual dues from the members of the department. The membership fee may not exceed five dollars and the annual dues amount to one percent of the annual salary of the member. This fund is entirely separate from the other city finances and can be used for no purpose other than that for which it was levied, although at the end of the fiscal year any surplus may be invested in government bonds. All payments must be upon warrants and an annual report is made to the city clerk.

The firemen's pension is administered through a board of trustees composed of the chief of the department, the city treasurer, and the city solicitor or attorney, who serve without compensation.

The original act contemplated two classes of firemen: paid members of a department and voluntary or call members. For the regular paid members the amount of the pension was fixed, but for the volun-

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tary members it was left to the discretion of the board of trustees. Pensioners are retired both on account of injuries sustained and services rendered. To entitle a fireman to a pension it was necessary that an injury received while in the performance of his duty should be such as to render him permanently physically or mentally unfit for further duty as a fireman. Then if he were a paid member he was retired on a monthly pension equal to one-half of his monthly salary at the time he was injured.

Upon application a member who had served in a given fire department for twenty-two years, the last five of which had been continuous, could be retired on the same pension by the board of trustees if it were found that he was unable to perform the duties that might be assigned to him or if he had reached the age of fifty-five. This provision did not apply to volunteer members, although as the section was rewritten in 1913 it would seem that voluntary members are included under all provisions of the law and can be retired on a pension fixed by the board of trustees.

The age limit of retirement for service was reduced in 1911 to fifty years,⁴⁸⁸ and in 1913 the five continuous years of service qualification was removed, but the proviso was added that any fireman retired on account of having served twenty-two years in a department should not receive a pension until he was fifty years of age. Five years of service in the department is now required before a pension will be granted for disability contracted while

the person is not engaged in the performance of duty or as a result of following the occupation of a fireman.⁴⁸⁷

Light duties may be assigned to retired members by the chief of the department, and members retired on account of injury are subject to reexamination at any time, but remain on the pension roll until re-instated in the department.

Should a retired or active fireman die, his surviving widow, so long as she remains unmarried and of good moral character, is entitled to twenty dollars a month, and if there are children less than sixteen years of age an allowance of six dollars a month for each of them is paid until the total amount for the family reaches one-half of the fireman's monthly salary when he retired or died. If there is no widow or minor children, twenty dollars a month may be paid to a dependent father and mother or to either of them.⁴⁸⁸ Under the original act if a fireman in active service died from causes other than injury in the performance of his duty or disease contracted as a result of his occupation no pension could be granted to his dependents.⁴⁸⁹

Another clause of the original act which was omitted in 1913 was one providing that if the funds became insufficient at any time, only proportional pensions should be granted, with no liability for unpaid portions. These pensions are exempt from liability for debts and are not subject to seizure. Neither can the right to a pension be forfeited except by conviction of a felony. The plan went into operation on January 1, 1910.

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POLICEMEN

The policemen's pension fund is also provided by an annual levy of a one-half mill tax in all cities and towns having an organized police department, including special charter cities. As is the case with the firemen's pension fund, membership fees of not over five dollars and annual dues of one percent of the annual salary of the member are required. Gifts and bequests are also acceptable. All disbursements are upon warrants, an annual report is made to the city clerk, and any surplus at the end of the fiscal year may be invested in government bonds, although the fund can be used for no purpose other than for policemen's pensions. The granting of pensions to policemen under the act of 1909 was merely permissive but the next General Assembly made it compulsory.⁴⁹⁰

Policemen's pensions are administered by a board of trustees composed of the chief of the police department, the city treasurer, and the city solicitor or attorney, serving without compensation.

A policeman becomes entitled to retirement on a pension of one-half of his monthly salary at the time he retires from the service if he is permanently mentally or physically disabled while engaged in the performance of his duty or if he has served for twenty-two years, the last five of which have been continuous, in a certain police department, becoming unfit for further service or having reached the age of fifty-five years during that time. A policeman retired on account of an injury may be reexamined at any time, and if found to be recovered, after a hear-

ing, the pension may be discontinued upon his re-instatement in the department. Light duties may be required of retired members in emergencies.

Should a policeman die from injuries received because of his occupation or should a retired policeman succumb, his widow gains a right to twenty dollars a month from the pension fund, so long as she remains unmarried and of good moral character, and for each child under sixteen years of age the sum of six dollars a month may be claimed until the total sum for the family reaches the amount of one-half of the monthly salary of the husband or father at the time he left the service. In case there is no widow or children twenty dollars a month may be granted to the dependent parents or to either of them.

If at any time the pension funds become insufficient, proportional payments are made and no liability exists in such a case for unpaid portions. The pensions are not subject to seizure, neither may they be taken for payment of debts. Conviction of a felony is the only act which will forfeit the right to a pension. Payment of policemen's pensions also began on January 1, 1910.

MOTHERS

That new form of public charity, commonly designated as mothers' pensions, which has found expression in a veritable prairie fire of legislation, came to Iowa in 1913.⁴⁹¹

The so-called mothers' pension in Iowa is, in effect, a new form of poor relief, although in theory

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it is founded on the principle of reward for service — service to be rendered. In reality the benefit of the pension devolves upon dependent or neglected children. The law is but an amendment to the powers of the juvenile court.

Presuming that the home furnishes the best environment for rearing children, if the juvenile court finds that the mother of a dependent or neglected child is a widow and so poor as to be unable to care properly for the child but is otherwise a proper guardian, it may fix an amount not exceeding two dollars a week for each child to be paid to the mother by the county board of supervisors until the child reaches the age of fourteen years. For the purpose of the act, any mother whose husband is an inmate of any institution under the Board of Control is considered a widow while he is there.⁴⁹²

MEMBERS OF THE SPIRIT LAKE RELIEF EXPEDITION

The only other instance of a pension from public funds in Iowa is that provided for the members of the Spirit Lake Relief Expedition. Since April 9, 1913, "the survivors of the Spirit Lake Relief Expedition of 1857, as shown by the roster of Iowa soldiers, vol. 6, pages 922-937 inclusive," have received a monthly pension of twenty dollars from the funds in the State Treasury. This pension is to continue during the lifetime of each such survivor.⁴⁹³

XIV

LEGISLATION AFFECTING LABORERS

BUREAU OF LABOR STATISTICS

Social progress has ever been intimately associated with problems arising from the industry of the people, and legislation affecting laborers has by no means fallen into the background during recent years. In Iowa the Bureau of Labor Statistics, which had been established prior to 1897, has been converted into an effective piece of administrative machinery by the extension of its jurisdiction beyond the mere compilation of statistics.

The Thirtieth General Assembly raised the salary of the Deputy Commissioner to \$1200,⁴⁹⁴ and since 1907 it has been \$1500.⁴⁹⁵ In 1904 the Commissioner was permitted to employ a regular office clerk at a salary of sixty-five dollars a month.⁴⁹⁶ The Thirty-second General Assembly decided that the salary of the office clerk should be fixed by the Committee on Retrenchment and Reform,⁴⁹⁷ but in 1913 a nominal salary of \$1000 a year was again established.⁴⁹⁸

In 1904 the Commissioner of Labor Statistics was allowed the services of a factory inspector whose compensation was to be \$100 a month.⁴⁹⁹ The Thirty-third General Assembly granted one additional factory inspector, if such should be deemed neces-

sary by the Executive Council, and the salary was again set at \$100 a month.⁵⁰⁰ In rewriting this section in 1913, the Thirty-fifth General Assembly provided for three factory inspectors, one of whom was to be a woman. The appointment of a woman as a factory inspector was provided for primarily in order "to promote the health and general welfare of the women and children employees of this state."⁵⁰¹ The salary of factory inspectors remained at \$100 a month.

Office and traveling expenses have always been paid by the State, but in 1904, on account of the new activity in factory inspection, the limit was raised from \$500 to \$1500.⁵⁰² Another factory inspector was provided in 1909 and the maximum amount allowed for office and traveling expenses was increased to \$2000.⁵⁰³ Finally, when the Thirty-fifth General Assembly added the third inspector, \$4000 became the utmost that could be used for this purpose.⁵⁰⁴

In 1902 the field over which the Commissioner was to report was extended to include "the means of escape from, and the protection of life and health in factories, the employment of children, the number of hours of labor exacted from them and from women."⁵⁰⁵ He was instructed by joint resolution in 1904 to aid in the collection of statistics of manufactures for both the National and State censuses.⁵⁰⁶

The appointment of a woman factory inspector in 1913 made it possible to include in the labor statistics reports the "sanitary and general conditions under which the women and children are at work in all fac-

tories, workshops, hotels, restaurants, stores, and any other places where women and children are employed''. Another provision in the same law required a record to be kept and a report to be made to the Commissioner of Labor within forty-eight hours after the occurrence of every accident causing death or disability for more than four days in industries other than mines under the supervision of the State Mine Inspectors.⁵⁰⁷

The Thirty-fifth General Assembly abolished the prescribed form upon which reports were to be made by employers to the Commissioner of the Bureau of Labor Statistics. Furthermore, instead of sixty days being allowed in which to furnish information, reports had to be made "within thirty days after the receipt of notice given by said commissioner".⁵⁰⁸

The Commissioner can compel witnesses to appear and testify in their own county, the expenses of whom, prior to 1902, were paid from the contingent fund of the Bureau. Since that time such expenses have been paid out of the State Treasury.⁵⁰⁹ In 1902 the Commissioner was authorized to enforce the laws in regard to the employment of children, the maintenance of fire escapes, safety precautions, and the preservation of health. Sixty days notice was to be given in case of violation and at the end of that time, if the fault was not repaired, the county attorney was to be instructed to institute legal proceedings.⁵¹⁰ But not until 1913 were the fetters removed from the hands of the Commissioner to any appreciable extent. He may now inspect a place of

employment at his own discretion without a complaint being entered or a request being made.⁵¹¹

But the tendency in recent years has been to enlarge the scope of the Bureau, extending its jurisdiction beyond the mere compilation of statistics. Factory inspection began with the enforcement of the act of 1902 relating to the safety and comfort of factory employees.⁵¹² Next the Bureau was charged with the enforcement of the fire escape law of 1904.⁵¹³ The success of the Child Labor Act of 1906 depends largely upon the vigilance of the Commissioner.⁵¹⁴ And finally, private employment agencies were placed under the supervision of the Bureau in 1907.⁵¹⁵

EMPLOYMENT BUREAUS

An institution which is assuming an important rôle in relation to unemployment is the employment agency. It was in 1907 that the first and only Iowa legislation was enacted concerning this business. Cities and towns were given power to "license and regulate all keepers of intelligence or employment offices, bureaus and agencies, as well as all persons doing the business of seeking employment for others, or procuring or furnishing employers for others, or giving information whereby employes or employers may be obtained."⁵¹⁶ Fifteen days later⁵¹⁷ another act was approved which prescribed a method for regulating employment agencies that greatly enhanced the probability of enforcement.⁵¹⁸

A bureau failing to procure employment according to its agreement must return all "money, per-

sonal property or other valuable thing", except an amount not to exceed one dollar which may be retained as a filing fee. A written copy of the application or agreement must be furnished to the applicant for employment at the time of making application and it must contain the terms for procuring such employment. The division of fees between an employment bureau and an employer to whom an employee has been furnished is expressly prohibited. The Commissioner of the Bureau of Labor Statistics, or his deputy, may, and upon complaint being filed, must, investigate the books and records of any employment agency. For violation of any of these provisions an agency may be fined as much as one hundred dollars or the person convicted may be put in the county jail for not longer than thirty days.

WAGES

The special provision in the *Code of 1897* requiring that the wages of miners should be "paid in money upon demand semimonthly",⁵¹⁹ was amended in 1900 by adding that all wages of miners should be paid semi-monthly by "paying for those earned during the first fifteen days of each month not later than the first Saturday after the twentieth of said month, and for those earned after the fifteenth of each month not later than the first Saturday after the fifth of the succeeding month."⁵²⁰ The wages of non-residents have since 1904 been exempt from garnishment.⁵²¹

The final piece of wage legislation in Iowa is that

of the Thirty-fifth General Assembly establishing a minimum wage for public school teachers.⁵²² A uniform wage scale is fixed, based upon the grade of the certificate. For teachers having first grade certificates the minimum daily wage is the amount obtained by multiplying the average grade by three cents. The daily wage of teachers holding second grade certificates may not be less than the product of multiplying the average grade up to eighty-five percent by two and three-fourths cents, and in the case of third grade certificates the wage is determined by multiplying the general average by two and one-half cents. For a year's experience and attendance at an approved teachers training school for six weeks, three points of credit are added to the general average in estimating the salary due. No maximum wage is set. Any school officer violating these provisions is subject to be fined from twenty-five to one hundred dollars.

LABOR DISPUTES

Laws have been enacted in more than one-half of the States encouraging the peaceful settlement of labor disputes by providing for the formation of boards "to inquire into such disputes, to endeavor to bring the parties by conciliation to a peaceful settlement, and to render authoritative decisions on matters which the parties might agree to submit to such arbitration." New York and Massachusetts were the first to establish permanent boards of arbitration, although other States — notably Mary-

land in 1878 and New Jersey in 1880 — had previously made more or less unsuccessful experiments with other methods.⁵²³

No approximately adequate method of settling labor disputes by arbitration was provided in Iowa until 1913.⁵²⁴ It remained for the Thirty-fifth General Assembly to authorize the appointment of boards of arbitration and define their powers and duties.⁵²⁵ Whenever a dispute arises between employer and employees, unless it is in connection with interstate trade coming under other boards of conciliation, which has caused or is likely to cause a strike or lockout involving ten or more wage-earners, either or both parties to the dispute,⁵²⁶ the mayor of the city, the chairman of the board of supervisors of the county, twenty-five citizens of the county over twenty-one years of age, or the Commissioner of the Bureau of Labor Statistics, after investigation, may make written application to the Governor for the appointment of a board of arbitration. If the application is made by both parties to the dispute it must state whether or not they agree to be bound by the decision of the board, and if so the decision will be binding for one year from the date of the appointment of the board.

Upon receiving the application the Governor requests each party to submit the names of five fit and ready arbitrators within three days. Out of the persons thus nominated he will choose one from each group. If either of the disputing parties fails to nominate arbitrators the Governor must appoint

a fit person. Within five days these members recommend a third person who, if for any reason he will not act, may be replaced by the Governor. The next step is the organization of the board by the choice of a chairman and secretary.

In the matter of calling witnesses, administering oaths, and enforcing order the board is vested with the same power as the district court. Fees for witnesses and officers are the same as are allowed in the district court and are paid by the State. However, the board may "accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not." Ten days are given, unless the time is extended by the Governor, in which to investigate the situation by making a visit to the place of controversy and hearing all persons interested. During this period neither party may engage in any strike or lockout. A written decision of the case is rendered, at once made public, and put on display in the office of the city clerk. Within five days after the completion of the investigation, unless more time is granted by the Governor, a written decision and report of the findings must be made to the Governor, a copy must be filed with each party to the dispute, another returned to the Labor Commissioner for publication in his report, and a fourth printed in two newspapers in the county.

Each member of the board is allowed compensation at the rate of five dollars a day and necessary expenses for the time actually employed. All ex-

penses incurred under the act are paid out of the State Treasury.

PREVENTION AND REPORTING OF WORK ACCIDENTS

In proportion to the extent of manufacturing in Iowa, precautionary legislation for the safety of factory laborers has been conspicuously meager. It was in 1900 that the Commissioner of the Bureau of Labor Statistics undertook the work of factory inspection⁵²⁷ and until 1904 he was alone with his deputy in the work. In that year a regular factory inspector was provided,⁵²⁸ still another in 1909,⁵²⁹ and in 1913 the number was increased to three, one of whom is a woman.⁵³⁰ The Twenty-ninth General Assembly, as has already been noted, charged the Commissioner of Labor Statistics with the enforcement of the laws in respect to the employment of children, fire escapes, the safety of employees, and the preservation of health.⁵³¹ Only since 1913 has it been obligatory to report accidents in factories, and the law was given force by affixing a penalty of from five to one hundred dollars fine and costs for failure to comply.⁵³²

An act in 1902⁵³³ made it the duty of the owner or person in charge of an establishment where machinery is used to furnish "belt shifters or other safe mechanical contrivances for the purpose of throwing belts on and off pulleys, and, wherever possible, machinery therein shall be provided with loose pulleys; all saws, planers, cogs, gearing, belting, shafting, set-screws and machinery of every description there-

in shall be properly guarded." All persons under sixteen years of age, and females under eighteen, were forbidden to clean machinery while it is in motion; and children under sixteen are not permitted to operate dangerous machinery. This act provided that the State Commissioner of Labor, the mayor, and the chief of police of every city or town should enforce its terms, and anyone failing to comply with those terms within ninety days after being told to do so was to be fined as high as one hundred dollars or imprisoned in the county jail for not exceeding thirty days.

But in 1911 the law was changed, allowing only thirty days instead of ninety for the installation of safeguards, and further providing that the use of safety appliances should not be perverted so as to destroy their purpose, nor should they be removed except in special instances and then should be replaced immediately after the work is done. A minimum fine was fixed at five dollars.⁵³⁴

In 1902 the legislature seriously approached the question of fire escapes in factories. The act which was passed stipulated that the owner, proprietor, or lessee of a manufactory or warehouse, or of buildings of any character which were three or more stories in height, should provide at least one steel or wrought-iron ladder attached to the outer wall of the building and equipped with platforms of the same material at each story for every 5000 superficial feet of area or fractional part thereof covered by the building, if not more than twenty persons are em-

ployed therein. If more than twenty are employed, there must be two fire escape ladders, or one fire escape stairway; while if there are over forty employees, two such stairways are required, or as many as the chief of the fire department or the mayor of the city shall determine. Failure to meet the requirements of the law within sixty days after notice, is punishable by a fine of not less than fifty or more than one hundred dollars, and there is a forfeiture of twenty-five dollars for each additional week of delay.⁵³⁵

The enforcement of this act was left to local authorities,⁵³⁶ and evidently on that account it availed little, for the next General Assembly (1904) gave the Commissioner of Labor equal authority with the fire chief, the mayor, or the chairman of the county board of supervisors.⁵³⁷ A new feature added by the same enactment requires that signs indicating the location of fire escapes "be posted at all entrances to elevators, stairway landings and in all rooms."

When the office of State Fire Marshal was created in 1911, it became the duty of that official to investigate all fires and examine or cause to be examined, with the power of condemnation, all buildings of which complaint is made.⁵³⁸

The legislation guaranteeing safety to laborers in mines is confined to relatively few acts, of which the one in 1911 is of prime importance. There have been some changes in the complexion of the Board of Examiners of Mine Inspectors. The year 1900

saw the jurisdiction of this board extended to the examination of mine foremen, pit bosses, and hoisting engineers working in coal mines whose daily output was over twenty-five tons. This new duty was imposed on account of the fact that such employees were required to possess certificates of competency. The nominal salary of the members of the board remained the same—that is, five dollars a day and necessary expenses while in actual employment—but a proviso was appended limiting the time of employment to seventy days a year.⁵³⁹ The Twenty-ninth General Assembly passed an act requiring that members of the board, except the mining engineer, should hold certificates of competency as mine foremen, and that at least one should be a certified hoisting engineer. All must have had five years experience.⁵⁴⁰ The requirement that one member should “hold a certificate of competency as hoisting engineer” was removed by the following General Assembly, however.⁵⁴¹ The board was given power in 1911 to revoke, after a hearing, the certificates of competency of mine foremen, pit bosses, and engineers if they should wilfully disobey the Mine Inspector or be convicted of a misdemeanor under the mining act.⁵⁴²

The salary of Mine Inspectors was increased in 1900 from \$1200 to \$1500, and \$750 a year was allowed each one for traveling expenses.⁵⁴³ In 1907 the salary was raised to \$1800 a year,⁵⁴⁴ and fifteen dollars a month was allowed each inspector for office expenses by an act of the Thirty-fourth General

Assembly.⁵⁴⁶ Mine Inspectors were appointed for a term of three years in 1911,⁵⁴⁶ but the Thirty-fifth General Assembly made the period of incumbency six years.⁵⁴⁷ The Governor's power to remove State officers extends to State Mine Inspectors, although the regular process would be through the recommendation of the Board of Examiners.⁵⁴⁸

A law passed in 1902 made inspection at least once in six months mandatory in mines having a daily output of fifty tons or more of coal.⁵⁴⁹ Since then the duties of Mine Inspectors have been extended to include the determination of competency of shot examiners,⁵⁵⁰ the enforcement of the child labor law in mines,⁵⁵¹ and the inspection of gypsum mines every six months.⁵⁵²

Since 1911 any coal mine accident must be reported to the Mine Inspector immediately.⁵⁵³ But when the gypsum mining act was passed by the next General Assembly only the fatal accidents in such mines were required to be reported to the Mine Inspector and the coroner.⁵⁵⁴ A more extended system of reports is demanded of those employers who choose to come under the Workmen's Compensation Law of 1913. Any accident must be reported to the Industrial Commissioner within forty-eight hours after the employer has knowledge of its occurrence, and a supplementary report must be made at the termination of each sixty-day period of disability.⁵⁵⁵

Much more elaborate provisions were made in regard to maps of mines by the law of 1911.⁵⁵⁶ The various details to be contained in the maps and the

manner of drawing them so as to show all of the data in its proper relationships were specifically set forth. July first of each year is the date fixed for all maps to be brought up to date, and thirty days are allowed for such maps to be filed in the office of the inspector. The inspector is empowered to order a survey of a mine whenever the safety of the workmen, the support of the surface, the conservation of the property, or the safety of an adjoining mine seem to require it. Whenever a person in charge of a mine neglects or refuses for three months to furnish maps to the Mine Inspector he is guilty of a misdemeanor and upon conviction must be fined one hundred dollars and committed to jail until the fine is paid; while the inspector may order maps made at the owner's expense. In 1913 these provisions were adopted for the regulation of gypsum mines so far as applicable.⁵⁵⁷

In rewriting the mining law in 1911 the sections treating of escapes were elaborated and some material changes were made.⁵⁵⁸ The two openings in shaft mines must now be separated by natural strata three hundred feet in width and those of slope or drift mines by two hundred feet. The stairways in escape shafts must now be at least two and one-half feet wide and fitted with hand rails. Since July 4, 1911, it has been unlawful to build a ventilating furnace shaft in connection with an escape shaft and those so constructed before that time must be closely partitioned. All escape shafts not provided with stairs must have hoisting appliances, separate from

the regular hoisting shaft and equipped with a depth indicator, brake on the drum, steel or iron cage, and safety catches and covers on cages. Escape ways must be ventilated, kept free from ice, obstructions, steam and heated air during the day time, and falling water as far as possible.

If two or more mines are connected underground, upon joint agreement of the several owners, the hoisting shaft, slope, or drift of any one may still be used as an escape for the other, but the traveling ways to the boundary on both sides must be kept free and open and the doors unlocked, and when once established such a system can not be discontinued without the consent of the contiguous owners and the State Mine Inspector. Under no circumstances may an escape or ventilation shaft be constructed without the written approval of the Mine Inspector, and that officer may order the building of extra shafts of a like nature to be used only in cases of emergency. From such an order, however, the mine-owner may appeal to the district court on an equitable action.

To and from escape ways there must be traveling ways, free from falls of roof, standing water, and obstructions, five feet high and seven feet wide, although in certain instances, with the concurrence of the inspector, they may be reduced to three feet in height and six feet in width. At all intersections conspicuous signs must be posted directing the way to the escape. Weekly inspection must be made of traveling ways by the mine foreman or his assistant. Should a difference of opinion arise between the

Mine Inspector and the employer or five employees of a mine the case is taken to the district court.

It is unlawful to have inflammable buildings or other material between the main hoisting shafts, slopes, or drifts and the escape exit. Neither is it permissible to store powder where it will jeopardize free egress from the mine in case of fire or accident in the main shaft, slope, or drift buildings. A year was given by the act in which to construct the escape shafts and exits as provided by law and until that was done not more than twenty men were to be employed in any mine.

In general these same provisions were made to apply to gypsum mines in 1913.⁵⁵⁹ There must be two distinct openings, three hundred and two hundred feet apart according to the type of mine, which must be kept unobstructed and free from water. Stairways must be at an angle of not more than sixty degrees descent nor less than two feet in width. All air shafts must be provided with fans for ventilating purposes and no combustible material is allowed between any escape shaft and the hoisting shaft. Buildings may not be located within two hundred feet of an escape shaft without the written permission of the State Mine Inspector, neither may an escape shaft be constructed without his approval. Two gypsum mines connected underground may cooperate in the use of each other's hoisting shafts or slopes for escape ways. One year was given to owners of mines in which to comply with this law.

An amendment was made in 1911 to the law re-

quiring means of communication between the various parts of a mine by adding the provision that in cases where mechanical means are used in hoisting or lowering employees a competent person must be stationed at the top and bottom in charge of the signals during the time of raising and lowering employees and for half an hour before and after the ordinary work in the mine is in progress. A regulation code of signals consisting of rings or whistles is prescribed in the law to be used between the engineer and other employees in mines where machinery is operated. This code may be added to with the written consent of the Mine Inspector and must be posted in view of the engineer and at the top and bottom of each shaft. If the working parts of a mine extend three thousand feet beyond the foot of a slope, shaft, or drift, a telephone system or like means of communication must be maintained and extended for each three thousand feet of progress. Where traveling ways are used in conjunction with haulage roads that are over one hundred feet in length there must be a code of signals between the hauling engineer and all points on the road, unless the hauling is done by motor.⁵⁶⁰ Speaking tubes or other means of communication must be maintained in gypsum mines.⁵⁶¹

The law of 1911 added the requirements that the brake on a drum shall be under the control of the engineer without the necessity of his leaving his post; that flanges on drums shall have a clearance of four inches when wound, and that two and one-half

laps of hoisting cable shall remain on the drum when the cage is at its farthest limit; that there shall be an index dial showing the position of the cage; that cages shall be suspended between substantial guides; that their covers shall be of boiler iron; that no one shall ride in a shaft or cage with tools except in repair work; and that the speed of a cage shall not exceed four hundred feet a minute when persons are carried, nor shall any self-dumping cage be used for passengers unless it can be securely locked.⁵⁶² Much the same devices are required in gypsum mines.⁵⁶³

After twilight, or when the plain view of the top and openings of any shaft are obscured by steam or from another cause, a light other than a torch or open light must be kept burning. Traveling ways must be constructed around the bottom of each hoisting shaft, and for a person, except repairmen, to cross the shaft bottom in any other manner is unlawful.

When the Mine Inspector holds that a separate passage way is impractical and a haulage road must be used by employees in going to and fro, unless there is a clear space of two and one-half feet between the car and the wall, refuge places must be cut in the side of the passage, three feet in depth, four feet wide, and five feet high, every twenty yards along the way. A light must be carried on every trip or train of trip cars moved by machinery. All entries used both for draft animals and employees must be about eight feet wide and free from timbers or refuse, except in the case of long-wall work where

the inspector may determine that such a width is impracticable.⁵⁶⁴

Boiler and engine rooms erected since July 4, 1911, have been required by law to be made of fire-proof materials and to be located not closer than sixty feet to the hoisting shaft, slope, or drift. Material used in the construction of stables in mines must be reasonably incombustible and no inflammable material may be stored therein except enough hay for one day's use. Gasoline engines and supplies of gasoline therefor, which are limited to twelve gallons, must be located only on a return air current and twenty feet from all traveling ways. Ordinarily they are situated permanently, but in emergencies the Mine Inspector may allow them to be placed temporarily. If their temporary location is dangerous to the safety of the workmen, regular operations in the mine must be suspended. At least two hand fire-extinguishers must be kept ready at all hoisting shafts, air shafts, escape shafts and places of exit, boiler and engine rooms, stables in the mines, and where gasoline engines are used.⁵⁶⁵

In Iowa blasting is the customary method of mining. With little or no supervision and in the effort to secure as much coal as possible carelessness prevailed and the disaster at Lost Creek on January 24, 1902, was a result. A commission consisting of two miners, two operators, and one State Mine Inspector was appointed to investigate,⁵⁶⁶ and with their report as a foundation, the legislature the same year passed a law which made it necessary for shot

examiners, in mines where coal was blasted from the solid, to inspect all shots before they were charged, and it was their duty to prevent the firing of any shots that were considered unsafe.⁵⁸⁷

These provisions were amplified in 1911 when it was made the duty of the shot examiner to inspect and mark all dangerous drill holes, of which a record is to be kept for at least a week. Shots may not be fired until inspected, and not at all, if condemned by either the shot examiner or the mine foreman; and the mine foreman shall not cause a hole to be charged or a shot fired that has been condemned by the shot examiner.⁵⁸⁸

The law of 1911 remedied several other defects in regard to shot firing. Soil, sand, or clay are now the only substances that may be used for tamping and such material must be delivered at a place convenient to the workman. Fine coal dust is very inflammable and often explosive, and so, to guard against this danger, the law requires that dust must not be permitted to accumulate along the roadways which, if dry and dusty, are to be sprinkled at least once a week and as much oftener as necessary.⁵⁸⁹

No explosives are allowed to be stored in any coal mine, but each miner may have with him two twenty-five pound kegs of powder and other explosives necessary for one day's use, securely locked in a wooden or metallic box. All powder or explosives must be delivered in the mine by the operator or men employed by him for that purpose, and by electrical process in mines where twenty or more men are em-

ployed only when the employees have left the mine. The penalty for the violation of this law is a maximum fine of one hundred dollars or thirty days imprisonment in the county jail.⁵⁷⁰

In order that those employees in mines who occupy positions of grave responsibility should be well qualified for their places, a law in 1900 made it necessary that every foreman, pit boss, and hoisting engineer in mines the daily output of which exceeded twenty-five tons shall possess a certificate of competency awarded by the Board of Examiners of Mine Inspectors after a satisfactory oral or written examination, or upon proof that the applicant had been continuously employed as mine foreman, pit boss, or hoisting engineer for four years immediately preceding the examination. An examination fee of two dollars is charged and if successful the applicant must pay another fee of two dollars for his certificate. For the violation of this act a fine of not more than \$500, or imprisonment in the county jail for not exceeding six months, or both may be imposed.⁵⁷¹

According to the original law vacancies occurring in the positions of foreman, pit boss, or engineer were to be filled within a reasonable time and in 1909 a "reasonable time" was fixed at thirty days;⁵⁷² while the next General Assembly changed the scheme of rating mines included under this law from those having a daily output of twenty-five tons to those employing five or more persons.⁵⁷³ For committing a misdemeanor under the mining act of 1911 or for wilful disobedience of the orders of the Mine In-

spector, the Board of Examiners may revoke certificates of foremen, pit bosses, and engineers.⁵⁷⁴

When the position of shot examiner in mines was created it was required that they too should prove their competency, but to the Mine Inspector rather than to the Board of Examiners.⁵⁷⁵

The mining act of 1911 prohibited any person from talking to an engineer on duty and no one besides the engineer is allowed in the engine room except on business. It is further provided that "no persons shall go into, at or around a mine or the buildings, tracks or machinery connected therewith while under the influence of intoxicants and no person shall use, carry or have in his possession, at, in or around the mine or the buildings, tracks or machinery connected therewith, any intoxicants."⁵⁷⁶

It is for the mine foreman to inspect all parts of the mine from day to day to see that props and caps are supplied at convenient places, to keep a record of all boys under sixteen who are employed during vacation, to examine each escape shaft, manway, and traveling way every day, and to make a written report which is filed in the office of the mine and a monthly copy sent to the Mine Inspector. If conditions in any escape shaft, manway, or traveling way become dangerous he must notify the employees by obstructing the way at the defective spot.⁵⁷⁷

Since 1911 it has also been the duty of all employees to examine their working-places before beginning to mine or load coal, to avoid the waste of props, to notify the foreman if those furnished are

not suitable, and to carefully close all doors that direct the air current. No workman shall knowingly injure any water gauge, barometer, equipment, machinery, or live stock, nor place refuse material or any obstruction in any air course.⁵⁷⁸

A stretcher for every fifty employees in a mine must be maintained, with sufficient blankets and bandages.⁵⁷⁹

In 1911 the Mine Inspector was empowered, after reasonable notice, to bring suit in the district court to compel a mine-owner to provide safety appliances. Then if the owner of the mine fails to comply with the law he may be held for contempt of court and fined as much as \$500, being committed to the county jail until the fine is paid. The judge may order the mine closed while the case is pending.⁵⁸⁰

The Twenty-seventh General Assembly gave the Board of Railroad Commissioners — a body composed of three members elected for a term of three years and having general supervision of all railroads in the State, except street railways — power to extend the time within which railway companies, or car manufacturing or transportation companies leasing cars in the State, were to equip their cars with automatic couplers from January 1, 1898, to January 1, 1900.⁵⁸¹

In 1907 the General Assembly recognized the fact that many railway accidents are attributable to the unreasonable hours exacted of trainmen. A law was placed upon the statute books which prohibited any

employee engaged in the operation of trains from remaining on duty or being required to remain on duty more than sixteen consecutive hours, from performing any further duty without ten hours of rest, and from working more than sixteen hours out of any twenty-four. These provisions do not apply, however, in case of work performed in the protection of life or property at the time of a wreck or accident, nor to the time necessary for trainmen to reach a resting place after an unavoidable delay; nor does the law work to prevent crews from taking a passenger train, or freight train loaded exclusively with live stock or perishable freight, to the nearest division point; and finally, employees of sleeping-car companies are not included. It is the duty of the Board of Railroad Commissioners to investigate all alleged violations of the act, filing a report of the same with the Governor. They must also prosecute actual violations. The penalty for violation by any superintendent, train master, train dispatcher, yard master, or other official is a fine of from \$100 to \$500 for each offense.⁵²²

Another cause of railroad accidents is to be found in overhead obstructions; and the Thirty-second General Assembly gave the Board of Railroad Commissioners supervision over the stringing of wires over or under any railroad track. The board was to make regulations in this connection within a month after the act went into effect and to examine wires already strung, ordering such changes as were necessary. In no case may wires cross any track

less than twenty-two feet from the top of the rails. A fine of one hundred dollars for every ten days a wire is maintained contrary to regulations is the inducement to comply with the law and it is enforceable by action in the courts at the request of the Board of Railroad Commissioners.⁵⁸³

It has been unlawful since 1909 for any switch-engine to be operated without a head light at each end when used between sunset and sunrise, or without footboards of uniform height, width, and length both on the pilot of the engine and at the rear of the tender. Grab rails at a convenient height for employees to hold to with their hands and running the full length of the pilot beam and the rear end beam of the tender were also prescribed by the same law. Exceptions are made, however, in the case of engines used for switching at places where regular engines are not exclusively employed as such, or when for a period of twelve hours a switch-engine is being cleaned, or for a period of forty-eight hours if the switch-engine is disabled, or in the event of an unexpected amount of work. Neither is the switching by work trains considered contrary to law. Conviction of the violation of these requirements invokes a fine of from \$50 to \$500, and each day that an engine not equipped according to law is operated constitutes a separate misdemeanor.⁵⁸⁴

Following the law regulating certain safety devices on switch-engines came one prescribing the construction of caboose cars.⁵⁸⁵ They must be at least twenty-four feet in length, exclusive of plat-

forms. They must be equipped with two four-wheel trucks and provided with a door and platform at each end, a cupola, closets and windows, an emergency air valve, and an air gauge. The platforms are required to be eighteen inches wide and fitted with guard rails, grab irons, hand brakes, and steps, the latter being equipped with guards at each end and the back designed to prevent slipping. However, work trains, transfer service, and trains operated in cases of emergency of less duration than thirty-six hours do not come within the operation of the law. Neither does the law apply to interurban railroads. The act stipulated that as fast as cabooses were brought into the shops for general repairs they were to be sent out with the proper equipment, but by January 1, 1912 — this time limit being subject to extension as much as one year by the State Railroad Commissioners — all were to be equipped in conformity with the law. Common carriers engaged in transportation by railroads within the State to which State regulative power extends, except interurban roads, which conduct themselves contrariwise are guilty of a misdemeanor and subject to a fine of not less than \$100 nor more than \$500 for each offense.

Railways operating in Iowa between November first and April first of each year must equip all their locomotives with frost glass not less than eight inches wide and eighteen inches long on each side of the cab in front of the seats of the engineer and fireman. Seventy-two hours are allowed in which to re-

pair or replace a damaged or broken frost glass. The penalty for the violation of this act is a fine of not less than fifty or more than one hundred dollars for each day a locomotive is operated without the required frost glass.⁵⁸⁶

While its duties are fundamentally of an economic nature,⁵⁸⁷ the Board of Railroad Commissioners was in 1907 given the authority to investigate any serious accident resulting in personal injury or loss of life and to make a prompt report to the Governor. But nothing in this report may be used as evidence or referred to in any case in court.⁵⁸⁸ In the annual reports of the Railroad Commissioners data has been included concerning accidents but in such a manner as to make it futile.⁵⁸⁹ Since July 4, 1914, the accidents of those companies coming under the Workmen's Compensation Act have been reported through the Industrial Commissioner.⁵⁹⁰

But legislation guaranteeing the safety of employees on railroads is not confined entirely to those under the supervision of the Board of Railroad Commissioners. Street railways also have had some consideration. Since 1897 the law requiring front vestibules on street cars to be enclosed on three sides from November first to April first has been amended so that front vestibules must be enclosed on all sides during these months. This act went into operation on November 1, 1907.⁵⁹¹ The Thirty-third General Assembly added that after October 1, 1909, motor cars, except trailers, used to transport passengers,

not then required by law to carry an enclosed vestibule, should be equipped with a transparent shield extending the full width of the car and constructed so as to afford protection from inclement weather. Each day a car is run in violation of this act constitutes a separate offense punishable by a fine of not less than twenty-five dollars.⁵⁹²

The final piece of legislation contemplating safety in the operation of street cars came in 1911. Companies were given until January 1, 1913, to equip all double-truck passenger cars with power brakes and a device for sanding the rails so constructed as to be operated by the motorman. All single-truck passenger cars thirty-two feet long installed since July 4, 1911, have also been required to be so equipped. For the violation of this act the fine may not be more than twenty-five dollars, but each day's operation without such equipment constitutes a separate offense.⁵⁹³

The classification of passenger boats to be inspected was altered in 1900 by including all except rowboats. The law also recognized all power boats and not merely sailing craft and steamboats.⁵⁹⁴

The Thirty-third General Assembly passed a law making it necessary for boats propelled by sails or machinery on public waters of Iowa between the hours of thirty minutes after sunset and thirty minutes before sunrise to carry a headlight, the lens or mirror of which must be at least five inches in diameter. Boats operated by machinery having a speed

of more than ten miles an hour must be equipped with a reverse gear, reversible propeller, or some other adequate means of prompt reversal. The speed limit in going through a draw or under a bridge is four miles an hour. A maximum fine of one hundred dollars or a sentence of thirty days in the county jail may be imposed for a violation of these provisions.⁵⁹⁵

Since April 12, 1911, every boat for which a certificate of inspection is issued must be supplied with a number of life preservers equal to one-half the number of persons that may be carried, and these life preservers must be kept within view and easy reach of the passengers. Life preservers are subject to inspection at the same time as the boat. The penalties for a failure to comply with this act are the same as those prescribed for violation of the law requiring boats to be inspected and licensed.⁵⁹⁶

INDEMNITY FOR WORK ACCIDENTS

Until the passage of the Workmen's Compensation Act of 1913 the only method by which an injured workman could claim indemnity was an appeal to the courts under the 'Common Law of employers' liability. Employers' liability laws are an outgrowth of the law of torts. They are based upon the question of fault or personal liability for personal wrong. But as time has elapsed and new conditions have appeared in industrial affairs the fundamental doctrine has been modified.

Duties of Employers. — It is the duty of the employer to use ordinary care for the safety of his em-

ployees and an injury resulting from breach of this duty constitutes negligence, for which he may be held liable.

Occupational Risks. — There are certain inherent hazards in every industry which no amount of care is able to overcome. For these the law of employers' liability affords no remedy.

The Fellow Servant Rule. — Neither can a master be made accountable to one workman for the negligent acts or omissions of another who is engaged in the same employment. With the growing complexity of modern industry, co-employment has ironically kept pace. Track inspectors and locomotive engineers have been classed as fellow servants.

Contributory Negligence. — Another way in which the law baffles an injured workman in his endeavor to get indemnity for personal injury is through the doctrine of contributory negligence. No matter how delinquent an employer may have been, if the injury has resulted from the failure of the workman to exercise due care or on account of the slightest negligence on his part there is no compensation forthcoming.

Assumption of Risk. — Finally, if an employer is so notoriously negligent that the workman must have been aware of the danger, he is assumed to have tacitly accepted the negligence as a condition of his employment, assumed the risk, and waived his right to recover.

Iowa legislators up to the adoption of the recent Workman's Compensation Act sought to protect

workmen by a modification of these principles which are based upon the antiquated policy of *laissez faire* and individual responsibility for social and economic conditions.

The first employers' liability measure to be passed after the adoption of the *Code of 1897* consisted of an amendment to the law abrogating the fellow servant rule on railroads. In order to evade the final clause of the law which stipulated "no contract which restricts such liability shall be legal or binding", voluntary relief departments, toward the support of which employees contributed part of their wages, were formed. The so-called Temple Amendment was therefore passed in 1898 declaring that "any contract of insurance, relief, benefit, or indemnity" entered into before the injury should not constitute a bar to recovery or a defense. This was not to be construed, however, to prevent settlement between parties subsequent to the injury.⁵⁹⁷

It was not until 1907 that the doctrine of assumption of risk was qualified in other industries than railroads.⁵⁹⁸ The Thirty-second General Assembly provided that, should any employer in an establishment where machinery is used be given written notice that certain machinery or appliances were defective or out of repair, an employee, by reason of remaining in the employment with knowledge of the defect, should not be deemed to have assumed the resultant risk.⁵⁹⁹

The salient feature of this was the fact that the notice to the employer had to be written. By an act

of the Thirty-third General Assembly, this defect was remedied, it being only necessary that the employer have knowledge of the defect. Contracts restricting this liability of employers were declared invalid. Another avenue of evasion was blocked by the act providing that the risk created by defective machinery is not occupational. The law did not, however, apply to the employee whose duty it was to repair the defect nor when the danger was so apparent that a prudent man would not remain at the work.⁶⁰⁰

The rule of contributory negligence was modified in 1909 in the railroading industry. If the injured employee should contribute to the accident, that fact was not to operate as a bar to recovery, but the damages were to be in proportion to the amount of his negligence. There could be no contributory negligence on the part of the employee if his injury was the result of the neglect of the employer to provide the safety appliances prescribed by law.⁶⁰¹

Thus, in Iowa, the year 1912 found the fellow servant rule and the doctrine of assumption of risk abrogated in the case of railroads, while contributory negligence was not an absolute bar to recovery. In other industries the fellow servant and contributory negligence rules remained in force, but assumption of risk applied only to employees whose duty it was to repair defects and to those who remained at work when the danger was so imminent that a reasonably prudent person would not do so.

That the recovery of some part of the economic

loss of work accidents might be facilitated, mutual life insurance companies whose charters permitted were allowed in 1906 to write health, accident, and employers' liability insurance against any casualty except those caused by the explosion of steam boilers.⁶⁰²

The "Employers' Liability and Workmen's Compensation Act" of 1913⁶⁰³ was a result of the work of a commission created by the Thirty-fourth General Assembly to investigate the problem of industrial accidents and "inquire into the most equitable and effectual methods of providing compensation for losses suffered".⁶⁰⁴

The law applies to all employers and employees except household servants, farm hands, and casual laborers, but the choice of coming under the terms of the act is optional both with the employer and employee, unless the State, county, municipality, or school district is the employer, in which event it is compulsory upon both employer and employee. Unless the law is affirmatively rejected it becomes automatically compulsory with any employer or employee. But if the employer prefers to reject the act he assumes the burden of proof when charged with negligence and all injuries are presumed to be caused by such negligence.

¶ The prime object in providing the elective feature was the hope of making the law constitutional. That this expectation was not futile has been borne out by the decision of the United States District Court of the southern district of Iowa rendered on

June 22, 1914. Judge Smith McPherson declared the law constitutional in all its parts.⁶⁰⁵

Assumption of risk, fellow servant, and contributory negligence doctrines are all swept away as defenses, unless the latter is wilful or the result of intoxication. Employers can not in any way contract with their employees so as to relieve themselves of liability for injuries caused by their own negligence, although there is nothing to hinder a settlement after injury, provided the standard set by the act is fulfilled.

In case it is the employee who rejects the act, then the employer may "plead and rely upon any and all defenses including those at common law, and the rules and defenses of contributory negligence, assumption of risk and fellow-servant shall apply and be available to the employer as by statute authorized unless otherwise provided in this act." Notice of injury must be given within thirty days, or within fifteen if to delay a longer time would impair the rights of the employer.

The amount of compensation depends upon the seriousness of the injury and is based upon the average wages of the employee computed on the basis of his annual earnings for the year next preceding the injury. After two weeks of incapacity the employer may be required to furnish surgical, medical, and hospital services to the amount of one hundred dollars. In case of death, and there are no dependents, the expenses of the sickness and burial of the workman are paid, but the total amount shall not exceed

one hundred dollars. If there are persons wholly dependent, they are paid fifty percent of the workman's average weekly wage, but not more than ten nor less than five dollars a week, for a period of three hundred weeks. In case of partial dependents, the compensation for the same length of time is in proportion to the part of the workman's annual earnings formerly contributed toward their support. There is no compensation for incapacity lasting less than two weeks. For temporary disability, fifty percent of the weekly wage at the time of the injury is given, or all of it if such wage is less than five dollars a week, and payments are continued during three hundred weeks of such disability. Total permanent disability entitles the injured to the same compensation for four hundred weeks. A complex schedule of compensation for various dismemberments is also included, ranging from fifty percent of daily wages during two hundred weeks for the loss of an arm to fifty percent of the daily wages during seven and one-half weeks for the loss of the first phalange of the fourth finger. Payments may be made in a lump sum if desired. Any benefit or insurance arrangements whereby the employee contributes part of his wages toward a relief fund are held to be void.

For the administration of the law there is an Industrial Commissioner, appointed by the Governor for a term of six years and at a salary of \$3000 a year, with large powers of settling disputes, securing testimony, approving safety appliances, and de-

ciding claims of attorneys for services in securing a recovery under the act. Settlements made by the arbitration committee, consisting of the Industrial Commissioner and two others, one named by each of the disputing parties, may be reviewed by the Industrial Commissioner and appealed to the district court, but from that court appeals may be made only on questions of law.

All employers under the act are required to secure their liability within thirty days with some corporation, association, or organization approved by the State Insurance Department. This insurance may be either mutual or benefit.

THE HEALTH OF LABORERS

A law passed in 1898 provides that the air current in mines must not be a greater distance than sixty feet from the working face, except in making cross cuts in entries, and then not further away than seventy feet, unless the Mine Inspector should grant special permission in particular cases.⁶⁰⁶

Important amplifications and additions were made by the "Mines and Mining Act" of 1911. Air currents in coal mines must be measured once a week at the bottom of the intake, near the mouth of each split of the intake, and near the working face of the entries. The air current in every mine must be split and conducted so that not more than eighty employees are on the same split, but in certain instances the Mine Inspector may permit as many as fifty more if the required amount of air is being circu-

lated. Doors maintained for conducting the air current must be kept closed. All breaks-through in entries and rooms, except the last one, must be closed so as to prevent the air from passing through. The openings of all abandoned rooms and works must also be securely closed. Breaks-through in entries must be of an area of not less than twenty-five feet; and in the rooms the area of breaks-through must not be less than twenty feet. After being notified by the Mine Inspector, if the mine-owner or agent fails to provide a sufficient air supply, the employees may be ordered out until the defect is remedied. Failure to comply constitutes a misdemeanor punishable by a fine of from five to one hundred dollars.⁶⁰⁷

No stable may be so located in a mine that the air current passes through it, nor in any place without the approval of the Mine Inspector. Gasoline engines and supplies of gasoline must in all cases be located in the return air current.⁶⁰⁸

In gypsum mines the amount of ventilation required is the same as for coal mines, and the Mine Inspector may stop the work if the current is not sufficient.⁶⁰⁹ There are, however, no provisions for measurement or for split currents.

Closely associated with the ventilation of mines are the laws governing their illumination. In 1898 before any oil whatever could be used for purposes of illumination in coal mines it had to be inspected and approved by the Inspector of Petroleum Products. The other duties of the Mine Inspector re-

lating to illuminating oil were also turned over to this officer.⁶¹⁰

The only changes made when the law was rewritten in 1911 were to limit the means of illumination to materials equally as free from smoke or offensive odor as pure animal or vegetable oil, and if any substance is used, the refuse from which gives off offensive odor or gas, such refuse must be removed at the end of the day's work. The provision that oil had to be inspected and approved by the Inspector of Petroleum Products before being used in coal mines was omitted.⁶¹¹

In 1902 it became unlawful for any manufacturing establishment, workshop, or hotel in which five or more persons are employed not to be furnished with a sufficient number of water closets, earth closets, or privies, properly screened, ventilated, and cleaned; and if women or girls are employed, separate closets with separate approaches must be supplied. Enforcement is in the hands of the Commissioner of the Bureau of Labor Statistics, mayor of the city, and the chief of police; and violation may be punished by a fine of one hundred dollars or imprisonment in the county jail for thirty days.⁶¹² An amendment was made in 1911 whereby it was required that at least one water closet or privy should be supplied for every twenty employees and kept free from obscene writing or marking. The further provision was added that washing facilities should be furnished in factories, mercantile establishments,

mills, and workshops; and when the work necessitates a change of clothing there must be proper and segregated rooms for men and women. A supply of suitable drinking water must also be at hand.⁶¹³

Wherever emery wheels, emery belts, or tumbling barrels are used in factories or workshops to a greater extent than for the temporary grinding of tools, unless water is applied at the point of grinding contact, there must be blowers and pipes of sufficient capacity to conduct the particles of dust created to the outside of the building or to some receptacle. If not more than one man, however, is kept at such work the employer may be exempt at the discretion of the Commissioner of the Bureau of Labor Statistics.⁶¹⁴ In 1913 deleterious gases or fumes from molten metal or other material in factories, workshops, printshops, or places where such material is used, were required to be carried off by pipes, flues, or other adequate ventilators.⁶¹⁵ The methods of enforcement and the penalty for violation of these provisions are the same as in the case of failure to supply water closet and washing facilities.

CHILD LABOR

The first attempt to regulate the employment of children in industry had reference only to mines. In the *Code of 1897* the only instance of child labor prohibition is that no boy under twelve years of age shall work in a mine.

The next step had to do with the protection of children from personal injury and is found in the

Factory Act of 1902. "No person under sixteen years of age", declared the act, "and no female under eighteen years of age shall be permitted or directed to clean machinery while in motion. Children under sixteen years of age shall not be permitted to operate or assist in operating dangerous machinery, of any kind."¹⁶ But this law was evaded on the part of certain employers by inveigling persons under age to waive the liability of injury from dangerous machinery.¹⁷

It was the Thirty-first General Assembly that enacted the present child labor law in Iowa.¹⁸ No person under fourteen years of age may be employed in "any mine, manufacturing establishment, factory, mill, shop, laundry, slaughter house or packing house, or in any store or mercantile establishment where more than eight persons are employed, or in the operation of any freight or passenger elevator", and no one under sixteen years of age may be employed at any work or occupation which is physically dangerous or morally depraving. Neither is it permissible that those under sixteen years of age be required to work before six o'clock in the morning or after nine o'clock in the evening, and if the employment exceeds five hours a day there must be an intermission of at least thirty minutes between eleven and one o'clock. Persons working in "husking sheds or other places connected with canning factories where vegetables or grain are prepared for canning and in which no machinery is operated" constitute an exception to the last provision.

The enforcement of the act is left to the Commissioner of the Bureau of Labor Statistics, and he, his deputy, factory inspectors, or any other authorized person has the right to inspect all places where children are employed and bring action in court in case the law is found to have been violated. Lists of the names of all employees under sixteen years of age in the industries named must be conspicuously posted in the establishment. For false statements in relation to any of the provisions of the act, for refusing or hampering inspection, or for any other violation the penalty is a maximum fine of one hundred dollars or thirty days imprisonment in the county jail.

An amendment in 1909 specifies that authentic proof of the age of a child employed may be required of the employer and if such information can not be furnished the child shall forthwith be dismissed.⁶¹⁹

Closely allied and constituting the most effective method of mitigating child labor are the laws on the subject of compulsory education. It was not until 1902 that the legislature of Iowa saw fit to enact a law of this character.⁶²⁰ In that year it was decreed that anyone having control of a child between the ages of seven and fourteen years, inclusive, and in proper physical and mental condition, should cause such child to attend some public, private, or parochial school for twelve consecutive weeks a year or be liable to a fine of from three to twenty dollars for each offense. Exceptions were to be made in case the school was more than two miles away and public

conveyance was not furnished, or in case the child was excused for cause by a court of record or a judge thereof.

All cases of truancy were to be reported to the secretary of the school corporation. Truant schools for the instruction of habitually truant children, and truant officers to apprehend and take into custody truant children, if need be, were authorized, but not required, in each school district. School boards were allowed to resort to methods of punishment for habitual truants. It was made the duty of the school directors, president of the board of directors, or truant officers to enforce the law, and any lapse in fulfilling their duty for more than thirty days after being notified of a case of truancy by any citizen of the district, placed them in jeopardy of a fine of not less than ten or more than twenty dollars.

For the sake of facilitating the enforcement of compulsory education, the school census was to contain the number of children between seven and fourteen years of age.

Some obvious defects of this initial act were remedied by the next General Assembly when the required period of school attendance was changed to "sixteen (16) consecutive school weeks in each school year, commencing with the first week of school after the first day of September, unless the board of school directors shall determine upon a later date which date shall not be later than the first Monday in December." In school corporations with a population of 20,000 or over the appointment of truant

officers became compulsory.³²¹ In 1907 the county superintendent of schools, as well as any citizen of the district, was permitted to file notice of any violation of the law.³²²

The attendance requirement was increased from sixteen to twenty-four weeks by the Thirty-third General Assembly, and boards of directors in cities of the first and second classes may now require attendance for the entire time during which schools are in session in any school year. In cities of the second class and in towns the marshal or a police officer may be engaged as truant officer and paid in addition to his regular salary a sum not to exceed five dollars a month. A child is excused from attending school "while attending religious service or receiving religious instruction."³²³

The last piece of legislation on this subject was enacted by the Thirty-fifth General Assembly and purports to raise the age limit for compulsory school attendance to sixteen years.³²⁴ This provision, however, is not to apply to children over fourteen years of age who are regularly employed or possess an education equivalent to that obtained by having finished the eighth grade. The school census must now include a list of all children between seven and sixteen years of age.

Another recent movement relating inversely, yet potentially, to the solution of both the child labor and the compulsory school attendance problems in so far as both aim at ultimate good citizenship, is the

movement for establishing supervised playgrounds. School corporations were given authority in 1913 to acquire real estate to the extent of five acres for playground and other purposes, and independent school districts may become indebted for land additional to the site already owned.⁶²⁵

School boards in cities of the first and second classes, in special charter cities, and in cities under the commission plan of government are authorized to establish and maintain in the buildings and public school grounds under their custody and management, public recreation places and playgrounds without charge to the residents of that school district.⁶²⁶ They may also coöperate with the city officials and commissioners in charge of public parks and buildings, and provide the supervision, oversight, and instruction necessary in those places.

The school board may or, upon the petition of twenty-five percent of the voters at the last school election, must, submit the question of a tax levy for playgrounds. The rate of the tax, however, may not exceed two mills on the dollar of the assessed value of the property subject to taxation in the district, and is levied and collected in the same manner as any school tax. Once approved the playground tax is levied and collected annually until the people order its discontinuance.

The city council or commissioners may appropriate any reasonable sums from the general funds of the city for playgrounds and the school board may accept any sums of money appropriated and turned over by the city for this purpose.

XV

LEGISLATION PERTAINING TO PUBLIC HEALTH

The laws passed during the last seventeen years regulating the payment of the expenses of quarantine are strikingly ephemeral and indicative of the chaotic condition of the whole body of legislation governing the administration of matters pertaining to the public health. In the *Code of 1897* there is no special method of paying quarantine expenses. Presumably payment was made in the same manner as other expenses of local boards were met, that is, by the town, city, or township as the case might be.

But in 1902 quarantine expenses were authorized to be paid by the county in the first instance, and a tax was then to be levied on the town, city, or township for reimbursement.⁶²⁷ The next General Assembly, however, repealed this arrangement,⁶²⁸ and the act containing this repeal was repealed by the following General Assembly, which in a substitute act established a scheme whereby the county, having settled quarantine bills audited by the local health boards, could levy taxes to reimburse itself only to the extent of one-third.⁶²⁹ Thus the law remained until 1909 when for the third time the act of 1902 was repealed, as well as the scheme of 1906. In fact

all the expenses of local boards of health were ordered henceforth to be paid from the county poor fund, except where the person or persons liable for the support of an individual or individuals under quarantine are financially able to secure proper care and attention.⁶⁸⁰

In 1900 the State was divided into eight health districts, seven of which were represented by the seven physicians on the Board of Health.⁶⁸¹

A far-reaching privilege was given to the State Board of Health in 1902 when it was authorized to exercise the powers of local boards of health in order to enforce any of its rules and regulations, and the expense of such action was to be paid in the same manner as though it was the work of the local board.⁶⁸² The same General Assembly appropriated \$7000 for the use of the State Board of Health in destroying and replacing all property infected with contagious disease among the Indians in Tama County.⁶⁸³

The time for the semi-annual meetings of the State Board of Health was changed in 1904 from May and November to July and January.⁶⁸⁴ The secretary of the Board has been required since 1909 to furnish local boards with all the rules and regulations passed by the State Board,⁶⁸⁵ and in 1911 his maximum salary was raised to \$3000 a year.⁶⁸⁶

The most radical change in regard to the State Board of Health occurred in 1913. By an act of the Thirty-fifth General Assembly a board of appointment, consisting of the Governor, Secretary of State,

and State Auditor, was created. In their hands is placed the appointment of a secretary of the State Board of Health for a term of five years, who becomes the executive officer and Commissioner of Public Health, with authority in all matters under the control of the Board of Health and other departments having to do with the health and life of the citizens of the State.⁶³⁷

The membership of the Board of Health, likewise chosen by the board of appointment, was reduced to five persons — one civil and sanitary engineer and four physicians, not more than three of whom shall belong to the same political party nor more than two of whom shall be from the same school of medical practice. With the exception of the civil and sanitary engineer, whose salary was to be fixed by the board of appointment at a sum not exceeding eight dollars a day nor \$2500 a year, the compensation of the members of the Board of Health was set at \$900 a year and transportation expenses. Members of the Executive Council became ex officio members of the Board of Health with the special function of approving the expenditures. The arrangement for districting the State was repealed by the same act. Significant of the centralization of the control of public health matters is the provision that the State Board shall have power to enforce sanitary regulations in a locality if petitioned to do so by five or more citizens of the locality.⁶³⁸

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CONTAGIOUS AND INFECTIOUS DISEASES

Inoculation as a preventative of contagious and infectious diseases is gaining more and more favor. It was not remiss then that an antitoxin department was established in 1911 "for the purpose of furnishing antitoxin to the people of the state of Iowa". The State Board of Health was authorized to establish distributing stations so as to "enable physicians, druggists and other persons to secure the 'Iowa state board of health antitoxin' [as it is labeled] at the reduced rates". To this end \$2000 a year is appropriated.⁶³⁹

An infected person may not be removed from a place without the written consent of the local board of health of the city, town, or township to which he wishes to go. But should a person be contagiously ill in a city, town, or township not more than fifteen miles from his place of residence, if he chooses he may be taken home in a private conveyance bedecked with a yellow flag, traveling along the least traveled highways and accompanied by a health officer. The expenses of quarantine and care in the first instance are paid by the city, town, or township from which the patient is removed, and in the second by the city, town, or township to which he goes. Conduct contrary to this act is punishable by a maximum fine of one hundred dollars, by imprisonment for thirty days, or both.⁶⁴⁰

The *Laws of 1902* provide that the health officer of a municipality which is allowed to maintain a pest-house outside its limits shall have exclusive juris-

diction and control of it and that disputes as to the location of pest-houses shall be settled by a committee of three appointed by the president of the State Board of Health.⁶⁴¹

In revising the regulations for the care of an infected person the Twenty-ninth General Assembly took cognizance of the support of persons in pest-houses or detention hospitals, by providing that the expense should be equitably apportioned among all of the patients.⁶⁴² This law was repealed and rewritten again in 1906, and the apportionment scheme was omitted;⁶⁴³ while in 1909 the final rewriting named scarlet fever, smallpox, diphtheria, cholera, leprosy, cerebro-spinal meningitis, and bubonic plague as diseases for which a quarantine should be established or fumigation required.⁶⁴⁴ Anterior poliomyelitis (infantile paralysis) was included in 1911 and the fumigation requirement removed, except that premises where there is a death from tuberculosis must be disinfected.⁶⁴⁵

The Thirty-fifth General Assembly declared syphilis and gonorrhea to be contagious and infectious diseases. Every practicing physician of Iowa must report to the local board of health within twenty-four hours every case that comes to his knowledge and preserve a record of those cases numbered consecutively. The report states the sex, approximate age, character of the disease, probable source, whether previously reported or not, but does not disclose the name of the person. Failure on the part of a physician to comply with this requirement

may mean a fine of one hundred dollars or a sentence to the county jail for thirty days; while the State Board of Health may revoke his license to practice. Any person afflicted with syphilis or gonorrhea who knowingly transmits or assumes the risk of transmitting the diseases to another person by intercourse may be fined to the extent of \$500, imprisoned for a year in the county jail, or both fined and imprisoned. Besides he is liable to the party injured for damages.⁶⁴⁶

The requirement that hotel beds be furnished with white cotton or linen pillow slips and two sheets ninety-six inches long and wide enough to cover the mattress, that they must be washed and ironed after each succeeding guest, that all bed clothes must be aired and kept clean, and that if any room becomes infested with vermin it must be renovated until the pest is exterminated, is a recent measure guarding against the spread of disease.⁶⁴⁷

The annual appropriation devoted to the suppression of disease among live stock was increased in 1898 from \$3000 to \$5000.⁶⁴⁸ The compensation of the State Veterinary Surgeon was changed to an annual salary of \$1800 in 1907 and allowance was made for a secretary at \$750 a year. At the same time local health boards were permitted to notify the State Veterinary Surgeon directly of the presence of contagious disease among domestic animals. The Executive Council, rather than the Governor, must now approve the destruction of stock.⁶⁴⁹

In 1906 the State Veterinary Surgeon was charged

with the enforcement of the law prohibiting the entrance into the State of any registered cattle for breeding or dairy purposes not accompanied with papers certifying that they have been subjected to the tuberculine test within sixty days previous and are free from disease. In lieu of such a certificate cattle may be quarantined and inspected at the expense of the owner. For violating this law a person is subject to be fined to the extent of one hundred dollars, imprisoned for thirty days, or both fined and imprisoned.⁸⁸⁰

TUBERCULOSIS

Throughout the United States there has of late years been waged a serious fight against the great white plague, tuberculosis. It was in 1904 that the General Assembly saw fit to empower the Board of Control to "investigate the extent of tuberculosis in Iowa and the best means of prevention and treatment of the disease". An appropriation of \$1000 was made to determine the actual results of care and treatment.⁸⁸¹

Following the report of the Board of Control the Thirty-first General Assembly established a State Sanitarium for the "care and treatment of persons afflicted with incipient pulmonary tuberculosis". The institution was placed under the supervision of the Board of Control, and that body was to appoint a superintendent and other officers. There was appropriated \$50,000 for the purchase of not less than one hundred and sixty acres of land and the erection of buildings and accommodations for one hundred

patients. Examining physicians in various localities of the State were to be appointed by the Board of Control and allowed to charge the applicant for admission to the hospital three dollars for his examination. Only bona fide residents of the State afflicted with incipient pulmonary tuberculosis, according to the statement of the examining physician, who show a reasonable probability of satisfactory improvement may be admitted.

It was determined that twenty dollars a month should be the maximum per capita support, but if the average number of patients per month should fall below two hundred, the institution was to be accredited with \$4000 regardless of its population. All patients able to pay were to be charged such a rate monthly as the Board of Control should fix. The expense of transportation and treatment of any one not able to pay was to be met by the State.⁶⁵²

The next General Assembly changed the name to "sanatorium", and at the suggestion of the Board of Control raised the per capita support to thirty dollars a month. To complete the equipment of the institution \$50,000 more was appropriated and \$5000 annually was to be set aside and used by the Board of Control for the collection and dissemination of information regarding tuberculosis. The Board was also advised to stimulate the establishment of hospitals or dispensaries in various counties and large cities for the care of patients in advanced stages of the disease.⁶⁵³ The maximum per capita monthly allowance was increased to forty-five dol-

lars in 1913, but the aggregate allowance remained at \$4000.⁶⁵⁴

The Thirty-fifth General Assembly also authorized the treatment of advanced cases of tuberculosis at the State Sanatorium and provided \$5000 for the purpose. By the same act each county was made liable for the support of its own patients and the board of supervisors was in turn empowered to collect payment from the patients or the persons legally bound for their support.⁶⁵⁵

The first instance of the regulation of local treatment of tuberculosis appeared in 1909 when county hospitals were authorized to maintain a department for that purpose. The board of supervisors may contract with the board of county hospital trustees for the care of indigent tubercular persons.⁶⁵⁶

The Thirty-fourth General Assembly required the individual in charge of the funeral of a person dying of tuberculosis to report to the mayor or township clerk the name and residence of the deceased person. The mayor or clerk must then see that the premises are properly disinfected.⁶⁵⁷

Finally, the last General Assembly authorized county boards of supervisors to undertake the segregation, care, and support of indigent persons afflicted with advanced cases of tuberculosis, and to that end they were allowed to spend fifteen dollars a week for the maintenance of each patient in some suitable institution. The sum of \$5000 in counties with a population of 15,000 and \$2000 in counties with a population less than that, may be used to

build or secure a suitable place for the treatment of such persons.⁶⁵⁸

VITAL STATISTICS

The seventeen years which have elapsed since the *Code of 1897* was adopted have failed to give Iowa a system of vital statistics worthy of the name. Indeed, only twenty-three States have statistics on deaths and only eight on births that can be used by the Federal Census Bureau. All States now require marriage certificates, but there is much disparity in thoroughness in the reporting of ceremonies performed: out of the twenty-five States providing for State registration of marriages only eight furnish figures that can be used.⁶⁵⁹

Iowa took a step in the right direction in 1904, when the State Board of Health was constituted registrar of vital statistics "for the complete and proper registration of births and deaths for legal, sanitary and statistical purposes".⁶⁶⁰ Health officers of cities and clerks of townships were required to act as local registrars, and sub-registrars were to be appointed by the Board of Health. The person in charge of a funeral was required to file a statement of the death with the local registrar and obtain a burial or removal permit before interment could take place. Certificates of birth made out by the person attending, the parent, or some other responsible person were to be filed with the local registrar within ten days. Local registrars in their turn were to make monthly reports to the State Board of Health.

The compensation of local registrars was at the

rate of twenty-five cents for each certificate of birth or death transmitted to the Secretary of State. Sub-registrars received ten cents for each certificate filled out by them. In cities of over 10,000 population, however, no compensation aside from his salary was allowed the health officer for his services as local registrar.

Failure to register a birth or death constituted a misdemeanor punishable by a fine of from five to one hundred dollars, imprisonment for sixty days, or both the fine and the imprisonment.

The next General Assembly (1906) repealed all previous laws regulating vital statistics and passed a new act. At this time the secretary of the State Board of Health was made State Registrar of Vital Statistics. Deaths were to be certified by the person in charge of the funeral directly to the State Registrar each month, but births were to be reported by the assessor each year to the clerk of the district court, where they were recorded. The State Registrar rather than the Secretary of State was to furnish the necessary report blanks. Transcripts of death certificates were to be bound and deposited in the State Historical Building at Des Moines, while copies of the certificates for each county were to be turned over to the clerk of the district court. The clerk of the district court was also required to keep a record of all marriages and divorces in the county and to report them each year, together with the birth record, to the State Registrar. To defray expenses the sum of \$2500 was appropriated and the secre-

tary of the State Board of Health was allowed twenty-five dollars a month for his services as State Registrar. Except that the minimum fine was increased to ten dollars the penalty for non-feasance remained unaltered.⁶⁶¹

Two amendments were made in 1907, and thus the law stands to-day. Assessors were required to report deaths as well as births each year to the clerk of the district court, and an annual appropriation of \$2000 for expenses was provided; while the extra compensation of the State Registrar was discontinued.⁶⁶²

HOSPITALS

Aside from establishing hospitals for the care of certain defective classes there was no activity in Iowa along the line of providing suitable places for the care of diseased people up to 1906. The Thirty-first General Assembly passed an act giving cities with a population of 12,500 or over power to maintain a hospital.⁶⁶³ This right was extended to cities of over 5000 population a year later.⁶⁶⁴ The question of a tax levy to carry out the purpose of the act must be submitted to a vote of the people of the city at an election and the tax rate is limited to three mills on the dollar in cities of over 22,000 population and to two mills in those between 5000 and 22,000. City bonds may be issued in anticipation of the collection of the tax. Five percent of the general fund of the cities exercising this right may be annually appropriated for improvements and maintenance. Cities of the second class may become indebted for a

city hospital to the extent that the aggregate indebtedness of the city does not exceed two and one-half percent of the actual value of the property therein. Such hospitals are under the control of a board of three trustees elected for a term of six years, serving without compensation.

In 1907 it was made unlawful to erect, establish, or maintain a maternity hospital "within two hundred feet of any church building, university, school or other institution of learning, or public park, or in a building situated within 75 feet of premises owned by another", or anywhere within the State without a written permit from the State Board of Health. A fee of twenty-five dollars is charged for the permit, which must be renewed from year to year at a cost of five dollars for each renewal. Provision is made for the registration of patients, births, deaths, and the adoption and disposal of children in accordance with articles of adoption, and for inspection by the State or local boards of health. Violation of the provisions of this act constitutes a misdemeanor punishable by a maximum fine of \$250, confinement in the county jail for six months, or both; and any premises used contrary to these regulations may be declared a nuisance and treated accordingly.⁶⁶⁵

It remained for the Thirty-third General Assembly to permit and regulate the establishment of county hospitals. The question of voting a tax to establish a county hospital must be submitted at an election if petitioned for by two hundred residents of the county, one hundred and fifty of whom live in

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the city where it is to be situated. The rate may not exceed two mills on the dollar nor may the tax levy continue for more than twenty years. A county bond issue for hospital purposes is permissible. In addition to the hospital fund counties were allowed by the original act to appropriate five percent of the general funds for improvement and maintenance, but this provision was amended in 1913 to the effect that an annual tax sufficient to cover the expenses of improvement and maintenance, but not over one mill on the dollar, should be the method of meeting these disbursements.⁶⁶⁶ Such public hospitals are under the control of a board of seven trustees, three of whom are women, serving without compensation. A training school for nurses, a room for the detention and examination of the insane, and facilities for the treatment of tuberculosis are maintained. These hospitals must be held open to all classes alike and without discrimination against legal practitioners of medicine. Paupers of the county may be cared for without charge. The board of trustees fixes the rate of payment for the treatment of patients.⁶⁶⁷

PURE FOOD AND DRUGS

In 1902 the reports made to the Dairy Commissioner by persons manufacturing or selling dairy products were required to be made within thirty days after receiving the proper blanks; and a penalty of from twenty-five to one hundred dollars fine or thirty days imprisonment for violation was established.⁶⁶⁸

With the creation of the Department of Agricul-

ture in 1900, the Dairy Commissioner became ex officio a member of the State Board of Agriculture. The General Assembly authorized the employment of an office deputy at a salary of \$1000 a year and an Assistant Dairy Commissioner with the same compensation, the latter to be appointed by the Dairy Commissioner with the approval of the president of the Iowa State College of Agriculture and Mechanic Arts, the director of the Iowa experiment station, and the professor of dairying. The two former officers replaced the clerk. They were allowed actual traveling expenses.⁶⁶⁹ Provision was made for two Assistant Dairy Commissioners in 1904 and their salaries, as well as that of the office deputy, were raised to \$1200 a year.⁶⁷⁰ Three years later the stipend for each was made \$1400.⁶⁷¹

The Thirty-first General Assembly wrought considerable change in the status of the Department. The State Dairy Commissioner became the State Food and Dairy Commissioner on account of the more stringent provisions enacted at the same time in regard to food other than dairy products. In addition to his powers and duties as Dairy Commissioner he was charged with the enforcement of the new regulations and received an additional \$500 in salary. He was authorized to appoint assistants with powers as milk inspectors who were to be paid five dollars a day and traveling expenses while on duty. An official chemist at a salary of \$2000 a year was also provided, to be chosen by the Commissioner. County attorneys were instructed to institute

proceedings at the request of the Commissioner or his assistants and should any county attorney refuse to act the Governor was permitted to appoint an attorney. The Executive Council was given general supervisory power over the Commissioner. The sum of \$10,000 annually was appropriated for the purpose of enabling the Commissioner to enforce the provisions of the new act.⁶⁷²

The Food and Dairy Commissioner, his deputy, and assistants were given "full access to all places of business, factories, buildings, wagons and cars used in the manufacture, sale or transportation within the state of any dairy products or any imitation thereof", and they could examine and inspect any article suspected to be in violation of the law. Anyone hindering such investigation could be fined not exceeding one hundred dollars or put in jail for thirty days. The same General Assembly appropriated \$3500 for the equipment of a laboratory to aid in the enforcement of the pure food law.⁶⁷³

One year later (1907) the annual appropriation for the enforcement of the pure food laws was increased from \$10,000 to \$15,000, and the inspection of paints and oils, concentrated commercial feeding stuffs, and agricultural seeds was added to the duties of the Food and Dairy Commissioner.⁶⁷⁴ His power of enforcing the laws pertaining to pure oils was broadened in 1911.⁶⁷⁵

The only law passed by the Thirty-third General Assembly affecting the Food and Dairy Commissioner was that which included him among the ap-

pointive State officers who can be removed for certain causes by a majority vote of the Executive Council.⁶⁷⁶

In 1911 there was a general rewriting of the law regulating the affairs of this Department, but no radical changes were effected. The title of the Commissioner was changed to State Dairy and Food Commissioner. His salary was raised from \$2000 to \$2700 a year and the limit of his expense account was increased from \$3000 to \$4500. The salary of the deputy commissioner was raised from \$1400 to \$1800 a year and that of the State Chemist from \$2000 to \$2400. In addition to these officers the Commissioner was allowed to appoint a State Dairy Inspector at a salary of \$1600 annually, and four assistants, two of whom were to receive \$1600 a year and two \$1400 a year.⁶⁷⁷

The Thirty-fifth General Assembly strengthened the power of the Dairy and Food Commissioner by assigning to him the duty of inspecting and licensing bakeries, candy factories, ice cream factories, canning factories, slaughter houses, and meat markets.⁶⁷⁸

Two new safeguards of the public health were established by the Twenty-seventh General Assembly. One law provided that no person should "manufacture for sale, or knowingly sell or offer to sell any candy adulterated by the admixture of terra alba, barytes, talc, or any other mineral substance, by poisonous colors or flavors, or other ingredients,

deleterious or detrimental to health." Any person who should violate this act was to be subject to a fine of not more than one hundred nor less than fifty dollars. The other act amended the section in the *Code of 1897* which prohibited the sale, giving away, or offering for sale of any swine that have died of a disease, or have been killed on account of disease, by making it a violation of the law to buy or deal in such animals.⁶⁷⁹

The *Laws of 1906* contain three acts relative to the purity of milk and cream. One forbids any person to manufacture, or purchase for the purpose of converting into a product of human food any impure or adulterated milk or cream and places cream in the category with milk and skimmed milk as an article capable of adulteration by the "addition of water or any other substance or thing". Another act sets the penalty of a fine of from twenty-five to one hundred dollars against any creamery-man who delivers any skimmed milk without it being pasteurized at a temperature of at least 185 degrees Fahrenheit. The third law penalizes by a fine of from twenty-five to one hundred dollars the misreading or manipulation of milk or cream tests.⁶⁸⁰

Moreover, in 1906 the Thirty-first General Assembly defined adulterated food as follows:

First. If any substance or substances has or have been mixed and packed with it so as to reduce or lower or injuriously affect its quality, strength or purity.

Second. If any substance or substances has or have been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be an imitation of, or offered for sale, under the specific name of another article.

Fifth. If it be mixed, colored, powdered or stained, in a manner whereby damage or inferiority is concealed.

Sixth. If it contains any added poisonous ingredient, or any ingredient which may render such article injurious to health, or if it contains saccharine or formaldehyde.

Seventh. If it be labeled or branded so as to deceive, or mislead the purchaser, or purport to be a foreign product when not so.

Eighth. If it consist of the whole or any part of a diseased, filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Candy was held to be adulterated if it contained "terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous colors or flavors, or other ingredients deleterious or detrimental to health". Baking powder, mixtures, compounds, combinations, imitations or blends were to be labeled showing the exact character and constituents.⁶⁸¹

The same law prohibited anew the manufacture or sale of any adulterated foods in the State and enacted a provision requiring labels to be printed in "legible type no smaller than brevier heavy gothic caps", and to contain, along with the name and address of the manufacturer, packer, or dealer, a full statement of the composition and ingredients of the article. Misbranding was defined as occurring when the label

bore a false or misleading statement as to the contents of the article of food, the place of manufacture, or the weight or quantity contained. These provisions, however, were not to apply until July 1, 1907, to goods purchased or received in the State prior to July 1, 1906; and the following General Assembly (1907) extended the exemption in the case of canned corn still another year.⁶⁸²

In 1907 misbranding was defined more explicitly and the method of labeling was made more effective by requiring that "the name and quantity or proportion of each constituent" be displayed. The section on labeling was rewritten so as to preclude evasion.⁶⁸³

In regard to adulteration the Thirty-second General Assembly decreed that vinegar containing any added coloring matter, and any imitation article of food, offered for sale, under the name of another article, "if it does not conform to the standards established by law" are adulterated. The law proceeded to establish standards of quality for flavoring, almond, anise, celery seed, cassia, cinnamon, clove, ginger, lemon, terpeneless lemon, nutmeg, orange, terpeneless orange, peppermint, rose, savory, spearmint, star anise, sweet basil, sweet marjoram, thyme, tonka, vanilla, and wintergreen extracts and for cider, wine, malt, sugar, glucose, and distilled vinegar. Standard butter was required to contain eighty percent by weight, of butter fat.⁶⁸⁴

The Thirty-third General Assembly established a standard for oysters, providing that they must con-

tain no ice and not more than sixteen and two-thirds percent, by weight, of free liquid.⁶⁸⁵

The Thirty-fourth General Assembly defined ice cream as the frozen product of sweet cream and sugar containing twelve percent, by weight, of milk fat, not more than one percent, by weight, of harmless thickener, and three-tenths of one percent of acidity. Fruit and nut ice cream may contain not less than ten percent, by weight of milk fat.⁶⁸⁶

The law in regard to misbranding and adulteration was rewritten in 1911, but the only change effected was in a proper arrangement of offenses under the two classes. The original act had included instances of misbranding as adulterations, and up to this time the matter had been allowed to remain in such a state of confusion. No new conditions of misbranding or adulteration were imposed.⁶⁸⁷

The Thirty-fifth General Assembly, however, amended the section defining misbranding, substituting for the provision that a label should contain a correct statement, if any, of the weight or measure of the contents of the package, the dictum that no person should sell food in packages unless the quantity is conspicuously marked on the outside in terms of weight, measure, or numerical count.⁶⁸⁸ The appropriation for the enforcement of the pure food laws was raised in 1911 from \$15,000 to \$21,000 annually.⁶⁸⁹

But the most important piece of pure food legislation accomplished by the Thirty-fourth General Assembly was the act regulating the quality of milk

and cream. The old laws in regard to the sale of milk, misreading tests, labeling, and the adulteration of milk were repealed and in lieu thereof new provisions were enacted. Milk and cream were defined and the standard for whole milk was changed from twelve and one-half percent of milk solids to one hundred pounds to twelve percent; while the standard for cream was raised from fifteen to sixteen percent of milk fat. Skimmed milk was required to be so labeled. The payment for milk or cream at any test was made *prima facie* evidence that such test had been made. Operators of milk testers, as well as persons engaged in selling milk, were compelled to obtain a license, after having passed a satisfactory examination demonstrating their competency. The penalty for violating any of these provisions remained the same, with the exception of the jail sentence: twenty-five to one hundred dollars fine or thirty days imprisonment.⁶⁰⁰

Two important acts were passed by the Thirty-fifth General Assembly regulating cold storage and the sanitation of food-producing establishments. The first defined cold storage as the keeping of fresh meat, fresh fruit, fish, game, poultry, eggs, butter, and other articles intended for human consumption in a place artificially cooled to a temperature below forty degrees Fahrenheit for a period exceeding thirty days. All cold storage and refrigerating warehouses are required to be licensed annually by the State Dairy and Food Commissioner and to be kept in a sanitary condition satisfactory to the Commis-

sioner, on penalty of revocation of the license. They are subject to inspection at any time. The date of the receipt and removal of all articles must be recorded and stamped on the containers; reports of the quantity of food held in storage must be made quarterly or oftener to the Dairy and Food Commissioner; food not for human consumption must be plainly marked; and no diseased or tainted food is allowed to be placed in cold storage. The limit of the storage period is twelve months unless special extension of time is granted by the Dairy and Food Commissioner. Articles once removed from cold storage may not be re-stored. Whenever cold storage goods are offered for sale a sign to that effect must be displayed. For the first offense of violation there is established a fine of not less than \$25 or more than \$100, and for the second, from \$100 to \$500 fine, imprisonment for not more than six months, or a sentence of both fine and imprisonment may be imposed.⁶⁹¹

The second pure food law of the Thirty-fifth General Assembly seeks to establish proper conditions of lighting, draining, plumbing, and ventilating in all bakeries, confectioneries, canneries, packing houses, slaughter houses, dairies, creameries, cheese factories, restaurants, hotels, groceries, meat markets, and other places where food is prepared for sale, manufacture, packing, storing, or distribution.⁶⁹² Such food-producing establishments must secure an annual license from the State Dairy and Food Commissioner, whose duty it is also to inspect them from

time to time with a view to enforcing the regulations. All equipment and all the surroundings of the food must be kept clean, including vehicles used in transportation. The walls and ceilings in every bakery, confectionery, creamery, cheese factory, hotel, and restaurant kitchen must be made of metal, cement, or other suitable material and the floors of all food-producing establishments must be constructed of non-absorbant material that can be washed. Doors and windows must be screened during fly time. Toilets and lavatories are required in every instance, and all employees who handle the food must wash their hands and arms before beginning. Cuspidors must be provided wherever necessary and they, as well as toilets, must be cleaned daily.

Special regulations are made concerning the sanitation of slaughter houses. Refuse must be removed within twenty-four hours and no swine may be kept within one hundred and fifty feet. The building must be maintained in a state of repair, free from filth and offensive odors, and with sufficient drainage and pure water supply.

Confectionery, dates, figs, dried and fresh fruits, berries, butter, cheese, and bakery products on sale or display must be screened or covered. Sidewalk or street display is prohibited unless the food is protected from flies and dust and the bottom of the container is two feet from the surface of the sidewalk. Street display of meat is forbidden in any case.

For the first violation of this law a fine of from \$10 to \$50 may be imposed, for the second a fine of from

\$25 to \$100, and for subsequent offenses a fine of \$200 and confinement in jail for from thirty to ninety days.

It was not until 1907, a year after the first comprehensive pure food law was passed, that there was anything like a proper regulation of the sale of drugs. The Thirty-second General Assembly defined an adulterated drug as any medicine or preparation "intended to be used for the cure, mitigation or prevention of disease" in man or animal or the destruction of parasites, which does not correspond in strength, quality, or purity to the standard set by the United States Pharmacopoeia or National Formulary; or, if by label on the container, the drug does not profess to be of such standard, then it must be of the strength and purity it does profess to be.⁶⁹³

A drug is deemed misbranded if the label contains any false or misleading device or statement as to the ingredients or the place of manufacture, if the article is an imitation, if part or all of the contents of the original package have been removed and others substituted, or if a statement is not made of the proportion that may be contained of any alcohol, morphine, opium, heroin, chloroform, cannabis indica, chloral hydrate, acetanilide, or any derivative. The Thirty-fourth General Assembly qualified the last provision by explaining that it was not meant to apply to drugs recognized by the United States Pharmacopoeia or National Formulary nor to prescriptions of licensed physicians, dentists, and veterinarians.⁶⁹⁴ The sale

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or possession of any preparation containing wood or denatured alcohol to be used internally, externally, for cosmetic purposes, inhalation, or for perfumes was prohibited. A maximum fine of one hundred dollars was the penalty for the violation of the act and the enforcement was placed in the hands of the Pharmacy Commissioners. To aid in the enforcement of the law the Thirty-fourth General Assembly appropriated \$250 annually for two years and required the State Chemist to make all necessary analyses.⁶⁹⁵

SANITATION

In 1904 cities and towns were given the right to acquire real estate for the location of garbage and sewage disposal plants, dump grounds, and sewer outlets,⁶⁹⁶ and three years later towns and second class cities were empowered to levy a special tax for the construction of sewer outlets and purifying plants.⁶⁹⁷ A bond issue in anticipation of this tax was authorized by the Thirty-third General Assembly.⁶⁹⁸ In 1913 cities of over 80,000 population were given power to levy an annual one mill tax for the location, equipment, and construction of a garbage disposal plant.⁶⁹⁹ At present this act applies, of course, only to Des Moines.

The power of cities to regulate plumbing was extended in 1898 so as to include, along with sewers, the inspection of the connections of buildings with water mains and gas pipes.⁷⁰⁰ The Thirty-fifth General Assembly passed an act empowering cities and towns, including commission-governed and special

charter cities, "to regulate and license plumbers: to create a board of examiners to determine the qualifications thereof: to prescribe rules and regulations for the installation of plumbing work and materials: to provide for the inspection of such work, materials and manner of installation: to compel the removal of plumbing installed in violation of the manner prescribed". For violations of the law a maximum penalty of one hundred dollars fine or thirty days imprisonment may be imposed.⁷⁰¹

A sanitary measure was passed in 1909 which added to the law forbidding dead animals to be thrown into streams, ponds, wells, or cisterns,⁷⁰² the provision that night-soil and garbage, as well as dead animals, should not be thrown in such places nor upon any adjoining land which is subject to overflow.⁷⁰³

The Twenty-ninth General Assembly decreed that all manufacturing establishments, workshops, and hotels in which five or more persons are employed should be equipped with a sufficient number of water closets, properly screened and ventilated and kept clean.⁷⁰⁴ In 1911 the proportion of one such water closet to every twenty employees was established and manufacturies were required to provide washing facilities and dressing-rooms for employees.⁷⁰⁵

In the law of the Thirty-third General Assembly regulating the operation and maintenance of hotels and lodging-houses provision is made for their proper drainage and plumbing according to sanitary principles. If the city has a sewerage system such buildings must be connected with it, and if not, ap-

proved cesspools and privies must be provided. All hotels must be kept clean and free from effluvia, gas, or offensive odors.⁷⁰⁶

At the same session the Railroad Commissioners were authorized to require additions or changes in the equipment of railroad rolling stock and station houses "for the health and convenience of the public",⁷⁰⁷ but not until 1913 were sanitary closets required to be maintained at railway stations. They are subject to inspection by the hotel inspector. A maximum fine of one hundred dollars may be imposed on any company which fails to comply with the law.⁷⁰⁸

PUBLIC NUISANCES

The first reference to nuisances in the legislation of Iowa since 1897 was made by the Twenty-seventh General Assembly, when the adulteration of linseed oil was declared to be a public nuisance subject to injunction.⁷⁰⁹ The construction of any ditch, drain, or water course so as to prevent the surface and overflow waters of adjacent lands from entering it was made a nuisance in 1904.⁷¹⁰ A detailed act prescribing the method of enjoining and abating houses of lewdness, assignation, and prostitution, which are held to be nuisances, was placed upon the statute books by the Thirty-third General Assembly.⁷¹¹ In 1911 a maximum jail sentence of one year was established as an alternative penalty to the \$1000 fine for being convicted of maintaining a nuisance.⁷¹²

The emission of dense smoke in cities having a population exceeding 65,000 inhabitants was de-

clared to be a nuisance by the Thirty-fourth General Assembly, and such cities were given power to abate such a nuisance by fine or imprisonment or by action in the district court, and to regulate smoke inspection and prevention.⁷¹³ The next General Assembly, however, caused this law to apply to cities, including those under commission government, having a population of 30,000 inhabitants and to cities under special charters with a population of 16,000.⁷¹⁴

As has already been observed, cities had no power under the *Code of 1897* in regard to nuisances, except to abate them. This situation was remedied by the Thirty-fifth General Assembly. Now, in addition to "any right of abatement of any public or private nuisance, they shall have the right to prohibit the same by ordinance and to punish by fine or imprisonment for the violation thereof."⁷¹⁵

XVI

LEGISLATION PERTAINING TO PUBLIC SAFETY

FIRE PROTECTION

Two acts were passed by the Thirty-fifth General Assembly affecting the powers of cities and towns in regard to fire protection. One authorized *all* cities and towns in Iowa to adopt a building code, "providing for the districting of such cities into one or more districts, establishing reasonable rules and regulations for the erection, reconstruction and inspection of buildings of all kinds within their limits and for a fee for such inspection and providing penalties for violation".⁷¹⁶ The other law gave *all* cities and towns the power to require by ordinance that the buildings within the fire limits be constructed "in whole or in part" of fire-proof materials, and such municipalities may now remove structures erected contrary to such ordinances at the cost of the owner.⁷¹⁷ The Twenty-eighth General Assembly established a fine of from ten to fifty dollars for the use of gasoline, benzine, naphtha, or other dangerous fluids in dye works, pantoriums, or cleaning works located in a residence or lodging-house.⁷¹⁸

But it was not until 1902 that the State undertook to control fire protection through the regulation of

the construction of buildings. In that year a law was passed dividing structures to which the act applied into six classes.⁷¹⁹ Hotels or lodging-houses three or more stories in height, and tenements or boarding houses three or more stories in height occupied by one or more families, or an aggregate of twenty persons or more, were to have one ladder fire escape of steel or iron construction for every 2500 superficial feet of area or fractional part thereof covered by the building. The ladder was to be provided with platforms of the same material at each story and within easy access from two or more windows of each story above the first and was to extend from above the roof to within five feet of the ground. If such buildings were occupied by more than twenty persons it was required that the means of escape be a steel or iron outside stairway of similar construction.

Buildings used as opera houses, theaters, or public halls, with a seating capacity exceeding three hundred, and public school buildings and seminary and college buildings more than two stories in height, were to have at least one outside stairway — the latter class of buildings being required to have one stairway to every 2500 superficial feet of area or fraction thereof covered, and as many more such stairways and exits as the mayor or chief of the fire department saw fit to require. Hospitals and asylums of three or more stories in height were obliged to have one outside stairway for every 2500 superficial feet of area or fractional part covered by the

building and if there were living or sleeping quarters for more than twenty-five persons at least two such stairways were necessary. Finally, the law required that manufacturies, warehouses, and buildings of any character three or more stories in height not previously specified were to have one fire escape ladder for every 5000 superficial feet of area covered or fraction thereof, if not more than twenty persons were employed. If more than twenty persons were employed there were to be two such ladders, or one outside stairway; while if more than forty were employed the minimum requirement was two outside stairways, but the mayor or fire chief could demand more.

The enforcement of the law came within the jurisdiction of the fire chief, the mayor, or chairman of the board of supervisors according to the nature of the case, and sixty days after notification a person could be fined from fifty to one hundred dollars, and twenty-five dollars for each succeeding week for failure to provide fire escapes as specified.

The very next General Assembly, however, revised the classification and added to the requirements in some instances.⁷²⁰ Office buildings were included with hotels and lodging-houses, and the location of the escapes in these buildings was to be marked by a red light; while doors leading to the escapes were to be half glass and locked in such a manner as to render access easy. This provision in regard to signal lights and doors was made to apply as well to tenements and boarding-houses. No change was made

with regard to theaters, opera houses, and public halls. Hospitals and asylums were placed in the class with public schools, seminaries, and colleges, but the height limit under which escapes were not required was changed from two to three stories. An additional class was made for strictly fire-proof buildings, and one ladder fire escape was required for every 6000 superficial feet or fractional part thereof covered by such a building. In all the buildings thus designated signs indicating the location of fire escapes were required to be posted at all entrances to elevators, stairway landings, and in all rooms.

The Commissioner of the Bureau of Labor Statistics was given concurrent power with the city fire chief, mayor, and chairman of the board of supervisors to enforce the law.

The Thirty-third General Assembly decreed that "entrance and exit doors of all hotels, churches, lodge halls, court houses, assembly halls, theaters, opera houses, colleges and public school houses, and the entrance doors to all class and assembly rooms in all public school buildings, in all cities and incorporated towns, shall open outward."⁷²¹ In order to enforce this provision and that requiring the posting of signs indicating the location of fire escapes, the Thirty-fourth General Assembly fixed a penalty of from twenty-five to one hundred dollars fine for non-compliance.⁷²²

The last modification of the fire escape law was made in 1913, when boarding-houses in which sleep-

ing rooms are kept for rent or hire, were included with hotels, office buildings, and lodging-houses over three stories high.⁷²³

In 1909 a building law was passed relating specifically to hotels.⁷²⁴ A hotel was defined as any building advertised as such in which there are ten or more sleeping rooms. All hotels over one story in height and not fire-proof must have a fire escape rope in each bedroom. Signs showing the way to the escapes and notices of the presence of the ropes must be posted in each hall, stairway, elevator shaft, and in each bedroom above the first floor. Elevator shafts in non-fire-proof hotels must be enclosed below the first floor. If there are inner courts or light-wells in non-fire-proof hotels they must possess a trap door or opening through which by means of a rope or ladder persons may escape to the ground floor. All hotels three or more stories high must be provided with a hall on each floor extending from one outer wall to the other and at both ends of this hall there must be a steel or iron fire escape. Either one chemical fire extinguisher to every 2500 feet of space on each floor or a stand pipe one and one-fourth inches in diameter with a hose long enough to reach to any part of the building must be maintained ready for use in the hall on each floor.

The civil engineer of the State Board of Health was made Inspector of Hotels with power to appoint one or more deputies. For this work he receives a salary of \$1500 and the deputy inspectors are allowed five dollars a day. All hotels must be inspect-

ed annually and reported to the State Board of Health. For the inspection of those having less than twenty rooms a fee of four dollars is charged, and for those having over twenty rooms the fee is eight dollars. Inspection may be made oftener than once a year if a verified complaint of three or more patrons is filed. Certificates of inspection, which must be conspicuously displayed in the hotel, are issued by the inspector, if the hotel is in a satisfactory condition. For granting false certificates there is a penalty of a \$500 fine, six months in jail, or both the fine and the imprisonment. Anyone in charge of a hotel who hinders inspection or fails or neglects to comply with the requirements of the law may be fined one hundred dollars or put in jail for thirty days.

The Twenty-seventh General Assembly granted cities of the second class power to levy a one mill tax annually for the maintenance of a fire department.⁷²⁵ In 1909 this tax was increased to a maximum of three mills in second class cities under 10,000 population; while in cities having a population over 10,000 it might be as high as five mills. The same year commission-governed cities were allowed to levy annually a special tax not exceeding six mills on the dollar in order to provide facilities for fire protection.⁷²⁶

The Thirty-fifth General Assembly provided for the levy annually for a period of ten years of a tax of one and one-half mills on the dollar of the assessed value of property in all cities in the State hav-

ing a population of over 5000, in cities under the commission plan, and in cities acting under special charters, to be used in acquiring property and equipment for the fire department.⁷²⁷

Since 1897 there have been some significant changes in the administration of fire departments. A law passed in 1902, applying only to the city of Des Moines,⁷²⁸ created a board of police and fire commissioners having three members, to be appointed by the mayor for a term of six years. They were required to take oath and give bond. It was made the duty of this board to hold competitive examinations of all applicants for positions on the forces of the police or fire departments, with the exception of those who had already served three years successively next preceding the creation of the board. The appointments were to be made by the heads of the respective departments. Old soldiers and sailors were to be given preference. The chief of police was to be appointed by the mayor and the fire chief was to be elected by the city council.

Members of the police and fire departments can be removed by the board or by the chief of the department, with the right to appeal to the board. A person not a citizen of the United States, or who has not been a resident of the city for more than a year preceding, or who can not read and write the English language, or who is not of good moral character, or who is addicted to the use of intoxicating liquor is not eligible to serve as a policeman or fireman. For violation of the act, punishment in the shape of a fine

of one hundred dollars or imprisonment for thirty days can be imposed.⁷²⁹

This law was amended by the Thirty-second General Assembly making it applicable to first class cities having a population of over 20,000 and to special charter cities. The chief of the fire department was included among the officers appointed by the board of police and fire commissioners, and he also became subject to removal by that board.⁷³⁰

In 1911 there was installed an elaborate system of hearings before the board of police and fire commissioners for those members of the police and fire departments who are discharged or suspended by the heads of the respective departments. In case the funds in any city in which there is a board of police and fire commissioners become insufficient to pay the current salaries to the number of policemen and firemen employed, provision is made for reducing the number, the mayor designating the newest and most inefficient persons in the service as the ones to be discharged.⁷³¹

Under the commission plan of government established in 1907 the civil service commission was given similar powers with reference to the fire and police departments as are possessed by the board of police and fire commissioners in certain other cities.⁷³² Amendments were made in 1911, but the only change worthy of notice was that the chief of the fire department should be appointed by the civil service commission.⁷³³

Indicative of the tendency to centralize adminis-

trative authority in the State is an act of the Thirty-fourth General Assembly, which created the office of State Fire Marshal.⁷³⁴ The incumbent must be a citizen of the State and a person familiar with the causes of fires and the methods of preventing them, appointed by the Governor for a term of four years with a salary of \$2500. He may, with the consent of the Executive Council, appoint his deputy, one or more State inspectors, and other assistants. The salary of the Deputy Fire Marshal was fixed at \$1500 a year, but the compensation of other assistants was left for the State Fire Marshal to determine. There was appropriated \$12,500 annually for expenses.

The State Fire Marshal was required to devote his whole time to the duties of his office and to make annual reports of his activities to the Governor. It is for him personally, or through the fire chief, mayor, or township clerk of a locality to investigate the cause, origin, and circumstances of every fire in the State within two days after its occurrence. If a local officer should investigate a fire he was to report to the State Fire Marshal within a week. For investigating and reporting fires, the law stipulated that mayors and fire chiefs (if they received no compensation as such officers) and township clerks should be paid fifty cents in each instance and allowed ten cents a mile for traveling expenses. If the State Fire Marshal deems it necessary to further investigate a fire he may call witnesses and compel them to testify on penalty of a maximum fine of one hundred dollars, thirty days imprisonment, or both.

It is also within his power to enter a charge of arson against a person. A record of all fires, showing the name of the owners of the property, the occupants, the sound value, the amount of insurance, the amount of insurance collected, the loss to the owner, and the facts, statistics, and circumstances of the fire, must be kept in the office of the State Fire Marshal.

Any building, according to the law, may be inspected after a fire and, upon the complaint of any person interested, any other building can be inspected with a view to determining if it is especially liable to fire and dangerously situated, if it contains any combustible or explosive matter, or is in an inflammable condition. If such is found to be the case, it is required that the dangerous condition shall be ordered to be remedied, and a fine of from ten to fifty dollars can be imposed for each day's neglect on the part of the owner or occupant to comply with the law.

Finally, it was made the duty of the State Fire Marshal to require teachers in school houses of more than one story in height to conduct monthly fire drills and to instruct the pupils at least once a quarter concerning the dangers and causes of fires, using a bulletin on the subject prepared and distributed by the State Fire Marshal. For violation of this law teachers may be fined ten dollars for each offense.

The Thirty-fifth General Assembly amended the law establishing a State Fire Marshal to the effect that a fine of from five to one hundred dollars may

now be levied against any fire chief, mayor, or clerk of a township who fails or neglects to investigate and report a fire. When any building is "especially liable to fire, or is so situated as to endanger other buildings or property" the defect may be caused to be remedied or the building removed. Furthermore, the annual appropriation for expenses was placed at \$13,500, and the salary of the Deputy Fire Marshal was raised \$300. Mayors and fire chiefs are now granted compensation for reporting fires even though they receive pay for their services as mayors or fire chiefs, but traveling expenses are no longer allowed except in the case of township clerks.⁷³⁵

The Thirty-second General Assembly changed the penalty for the removal of fire apparatus and the giving of false alarms to a maximum fine of one hundred dollars or thirty days in jail.⁷³⁶

ROAD RULES

The protection of travelers on the highways has constituted a problem chiefly since the advent of the automobile. In truth, with the exception of traction engines the whole body of legislation since the adoption of the *Code of 1897* in regard to road rules has been concerned with motor vehicles.⁷³⁷

Three times since 1897 the rules for operating steam engines upon public roads have been amended. First, the Twenty-eighth General Assembly established a maximum penalty of thirty days imprisonment or one hundred dollars fine for violation of the law.⁷³⁸ Next, the Thirtieth General Assembly ex-

empted the county from liability in the case of personal injuries, as well as from damages resulting to the engines on account of failure to plank a bridge before crossing it.⁷³⁹ Finally, the law on the whole subject was rewritten by the Thirty-third General Assembly. At the present time it is specifically stated that the whistle shall *not* be blown, and that the engine must be stopped at a signal from a person with a restive horse or other animal. Care must be exercised in any case and assistance rendered whenever necessary. Since November, 1910, the planking of bridges and crossings has not been required. The penalty for violation of the law remains the same, while nothing is said in regard to the liability of the county for damages in the case of personal injury or harm to the engine.⁷⁴⁰

The first law requiring the registration of motor vehicles and regulating their use upon highways and streets was enacted in 1904 by the Thirtieth General Assembly.⁷⁴¹ Every owner of a motor vehicle was compelled to have it registered by the Secretary of State and to display the number at the rear of the machine. The speed limit was fixed at ten miles an hour in closely built-up parts of cities and towns, fifteen miles an hour elsewhere in cities and towns, and twenty miles an hour in the country. Upon being signalled to do so, a person operating a motor vehicle was required to stop until the person with a restive horse or animal had safely passed. Assistance should be rendered if necessary. Each motor

vehicle was to be equipped with effective brakes, a signal bell or horn; and if operated during the period between one hour after sunset and one hour before sunrise, one or more white lights were to be kept burning in front and a red light behind. For the first offense in violation of the law a fine of twenty-five dollars could be imposed, and for subsequent offenses a fine of from twenty-five to fifty dollars or imprisonment in the county jail for thirty days was made the penalty.

The first amendment (1907) made to the motor vehicle law was in respect to registration for which a fee of five dollars was authorized. Dealers were also required to display a number on their cars and for such a registration a fee of ten dollars could be charged.⁷⁴³ In 1909 the fee for registering motor cycles was reduced to two dollars, and dealers in motor vehicles were required to secure a permit and a number for each place of business if they should be operating in more than one city. The use by any operator of a motor vehicle with an unassigned number was prohibited.⁷⁴⁴

The Thirty-fourth General Assembly rewrote the whole law relating to motor vehicles.⁷⁴⁴ The annual registration fees precluded assessment of motor vehicles for taxes and were fixed according to horsepower. Money derived by the State in this manner was to be apportioned among the counties for use in road improvement. Two number plates were to be displayed, one at each end of the machine, and at-

tached so as to prevent them from swinging. Fifteen days was set as the limit of the time allowed for operating a vehicle under the dealer's number.

The new act made it unlawful for a person under fifteen years of age to operate a motor vehicle. Two white lights were to be carried in front (only one was required on motor cycles) and a red and a white light behind, from a half-hour after sunset to a half-hour before sunrise. The rear light was to be so situated as to illuminate the number. Besides the regulations in former laws as to care in meeting and passing on the highway, operators were required to slow down and stop if necessary in passing street cars which have stopped for passengers and, in approaching corners and curves, to slow down and give a timely signal. Besides being given other wide powers of regulation, cities and towns were allowed to determine the rate of speed within their limits, but it was not to be less than ten miles an hour. Signs were to be maintained designating the limits of the various areas of differing rates of speed. Above twenty-five miles an hour was fixed as a dangerous rate of speed on any road.

A long list of penalties was established in 1911. Violations of the registration requirements, and the permitting of a person under fifteen years of age to run a motor vehicle are punishable by a maximum fine of fifty dollars. A fine of as much as one hundred dollars may be levied against anyone not exercising due care and prudence in driving a machine and for the fourth and subsequent such offenses, or

for violation of local speed limitations, the license to operate may be revoked or suspended. Anyone who runs a car or motor cycle after the certificate of registration has been suspended or revoked, or while he is in a state of intoxication, is held guilty of a misdemeanor. Anyone causing injury to a person by a motor vehicle who does not stop and leave his name, address, and the number of his machine with the person injured or with a police officer is guilty of a felony punishable in the first instance by imprisonment for not more than two years, a fine of not over \$500, or both, and for the second offense by a term in the penitentiary of from one to five years, besides having his certificate of registration suspended in either case. Breaking the motor vehicle law in any manner for which no penalty is established is deemed a misdemeanor punishable by a fine of not exceeding twenty-five dollars.

In 1913 such vehicles as motor trucks, fire engines, and patrol wagons were exempted from the regulations of the motor vehicle law and several incidental amendments were made in regard to registration.⁷⁴⁵

THE SALE OF POISONS

The sale of certain poisons has in recent years been more strictly guarded. In 1907 the list of poisons, the sale of which was forbidden unless properly labeled and their use made known to the recipient was revised to include "Acids, hydrochloric, nitric, and sulphuric, arsenic, chloral hydrate, chloroform, ammoniated mercury, atropine, arsenate of copper,

aconitine, benzaldehyde, bromine, cyanide of potassium, cobalt, corrosive-sublimate, dionin, ether sulphuric, hyoscine, morphine, kermes mineral, cantharides, cotton root, croton oil, carbolic acid, digitalis, denatured alcohol, ergot, hydrocyanic acid, nuxvomica, opium and its preparations, (excepting those containing less than two grains to the ounce), oils of bitter almonds, savin and pennyroyal, oxalic acid, phosphorus, strychnine and its salts, veratrum, and wood alcohol". This prohibition did not apply, however, to the sale of poisons used in filling prescriptions. A record of each sale was still required to be kept for five years, except in the case of wood and denatured alcohol to be used mechanically. The penalty for violation of the law was changed in regard to the prison sentence, making the maximum term thirty days.⁷⁴⁶

The Thirty-third General Assembly proceeded to take denatured alcohol from the list and to authorize its sale and the sale of poison fly paper by persons other than registered pharmacists.⁷⁴⁷ The sale of poisonous insecticides and fungicides by persons not registered pharmacists was legalized in 1911, provided such poisons are properly labeled.⁷⁴⁸

In 1902 the sale of cocaine except in filling a written prescription of a physician was prohibited on penalty of a fine of twenty-five to one hundred dollars for the first offense, and for subsequent offenses a fine or not more than three hundred nor less than one hundred dollars, or imprisonment for not exceeding three months constituted the punishment.

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The enforcement of the law was placed in the hands of peace officers.⁷⁴⁹ The Thirty-second General Assembly amended this law by making it unlawful to sell, exchange, deliver, or have in one's possession for such purposes, any coca, cocaine, alpha or beta eucaine, cotton root, ergot, oil of tansy, oil of savin or derivatives thereof, except that they could be sold to a registered physician or dentist, or used in filling a written prescription.⁷⁵⁰

The next General Assembly made it compulsory to register the sale of the above drugs and they could be sold only to registered physicians, veterinarians, and dentists for medical purposes. All but wholesale dealers in drugs and superintendents of hospitals were required to sign a record of sale.⁷⁵¹ The Thirty-fourth General Assembly, however, again rewrote this law with the effect of repealing the act of the Thirty-third General Assembly and leaving the provisions regulating the sale of cocaine and certain other drugs practically as they were in 1907 under the act of the Thirty-second General Assembly.⁷⁵²

The last law to be noted relating to poisons is that which makes it unlawful for anyone to deposit any samples of drugs or medicine on a porch, lawn, or other place where they are liable to be picked up by children.⁷⁵³

THE INSPECTION OF PETROLEUM

In 1898 the appointment of deputy petroleum inspectors was authorized, and all petroleum products lighter than that which requires a temperature of

105 degrees to emit combustible vapor could be used in Welsbach and street lamps. Besides liability for damages, those selling or using oil contrary to the provisions of the law could be fined from ten to fifty dollars, while misconduct on the part of railroads involved a fine of not less than fifty dollars.⁷⁵⁴

The Twenty-eighth General Assembly enacted a law allowing the use, not only of Welsbach lamps but of any other gasoline lamp approved by the State Board of Health.⁷⁵⁵ The General Assembly of 1902 included apparatus involving the use of gasoline, along with gasoline lamps, as requiring the approval of the State Board of Health. Another act passed at this time for the purpose of clarifying the former provision that petroleum emitting a combustible vapor below 105 degrees Fahrenheit could be used if the gas or vapor from it was generated in a closed reservoir outside the buildings, only made that exemption the more unintelligible.⁷⁵⁶

In 1904 the whole law relating to the inspection of petroleum products was rewritten and the office of Chief Inspector of Oils created. A possible salary of one hundred and fifty dollars a month was allowed him, according to the amount of fees collected. The only other new feature was one requiring any person receiving petroleum products subject to inspection to notify the inspector and to make a monthly report to the Secretary of State.⁷⁵⁷

The Thirty-fourth General Assembly changed the test for standard illuminating oils so as to include those which give off a combustible vapor at 100 de-

grees Fahrenheit, and provided for the labeling of gasoline, benzine, and naphtha according to the gravity test at 60 degrees Fahrenheit, at the same time prohibiting the sale of any not so labeled.⁷⁵⁸

Since 1906 it has been unlawful to sell gasoline in quantities of from one quart to six gallons in any but red receptacles labeled "gasoline", and kerosene must not be kept in such containers. Gasoline may be used for manufacturing and mechanical purposes, however, from tanks of over ten gallons capacity and the requirement that these tanks be red is omitted.⁷⁵⁹

In concluding the discussion of public safety measures, the prohibition of the sale or use of any toy pistols, dynamite caps, blank cartridges for toy pistols, and fire-crackers over five inches long and three-fourths of an inch in diameter should be noted. A person violating this act is subject to a fine of one hundred dollars or thirty days imprisonment.

The Thirty-fifth General Assembly made it unlawful for anyone to carry concealed weapons of any sort without a permit from the chief of police in cities, or the sheriff or mayor in places where there is no organized police force. Violation is deemed a felony punishable by a fine not exceeding five hundred dollars or by confinement in the penitentiary for not more than two years or both such a fine and imprisonment, although if it chanced to be the first offense the court may at its discretion reduce the punishment to a term in the county jail of not longer

than three months, or a fine of not more than one hundred dollars. Permits must be issued, however, to peace officers and certain employees of mining companies, banks, trust companies, railroad and express companies. Applicants must apply in person, giving their name, residence, age, place of employment, and the nature of their business. Dealers in dangerous weapons that can be concealed must have a permit to pursue their business. They must, furthermore, report within twenty-four hours to the county recorder the sale of any concealable weapon, stating the time, kind of weapon, and the name, age, occupation, and residence of the purchaser. Failure to do so is a misdemeanor. It is also a misdemeanor for anyone applying for a permit to carry concealed weapons or purchasing them to give a fictitious name. No person under fourteen years of age is allowed to carry firearms of any description.⁷⁰⁰

XVII

LEGISLATION PERTAINING TO PUBLIC MORALS

IMMORAL ENTERTAINMENTS

The recent legislation relative to public morals has been mainly amendatory, striving to keep pace with an ever finer appreciation of things genteel. The Twenty-eighth General Assembly prescribed a maximum fine of three hundred dollars or ninety days in jail as the penalty for engaging in boxing contests where admission is charged, for abetting such a performance, or for permitting property to be used to such an end.⁷⁶¹

In 1909 a law was passed forbidding immoral plays, exhibitions, shows, or entertainments to be given, advertised, participated in, or abetted; and anyone so doing or allowing property to be used for such a purpose was declared guilty of a misdemeanor and subject to a fine of not to exceed \$1000, imprisonment in jail for not over a year, or both.⁷⁶² Since 1911 it has been unlawful to exhibit any deformed, maimed, idiotic, or abnormal person, or human monstrosity, and receive any fee or compensation therefor. To do so renders a person liable to a fine of from ten to one hundred dollars, confinement in jail for from ten to thirty days, or both.⁷⁶³

The Thirty-second General Assembly made it unlawful to engage in ball games, horse-racing, or other sports or entertainments that would desecrate Memorial Day, before three o'clock in the afternoon. Violation of the act is punishable by a fine of from five to one hundred dollars or by imprisonment in the county jail for not longer than thirty days.⁷⁶⁴

OBSCENITY

The first law in relation to obscenity to be passed since 1897 was enacted by the Twenty-eighth General Assembly and provided that one using blasphemous or obscene language in public could be fined or imprisoned but not both.⁷⁶⁵ The Thirty-third General Assembly made it a misdemeanor to drink intoxicating liquor or use profane or indecent language on a railway train or street car, and conductors may eject persons who do so.⁷⁶⁶

In 1911 the law prohibiting the sale or distribution of obscene literature, pictures, and articles of immoral use was rewritten so as to include post cards of such a character. The same General Assembly provided that the water closets required to be maintained by factories should be kept free from all obscene writing or marking.⁷⁶⁷

UNCHASTITY

In 1906 the maximum term of prison confinement for the crime of incest was raised to twenty-five years.⁷⁶⁸ First cousins were added by the Thirty-third General Assembly to the consanguinity and affinity list to which the crime applies.⁷⁶⁹ The Thirty-

second General Assembly provided a maximum penalty of three years imprisonment in the penitentiary, six months in the county jail, or a fine of \$500 for committing any lewd act intended to arouse sexual passion with a child under thirteen years of age.⁷⁷⁰

The penalty of from one to ten years in the penitentiary for detaining or confining any girl or woman against her will for the purposes of prostitution was established by the Thirty-third General Assembly.⁷⁷¹ The act of soliciting another to have carnal knowledge with any woman was, by the Thirty-first General Assembly, made an offense punishable by imprisonment in the penitentiary for not exceeding five years or in the county jail for not exceeding one year, a fine not exceeding \$1000, or both the fine and jail imprisonment.⁷⁷² In 1913 punishment for the act of solicitation was made applicable to women as well as to men.⁷⁷³

It was in 1909 that a special method of abatement of houses of prostitution as nuisances was established. The act provides that the county attorney or any citizen may bring action for a perpetual injunction which, if sustained, involves the assessment and collection of a tax of three hundred dollars. For violation of such an injunction a person is held guilty of contempt of court and subject to a fine of from \$200 to \$1000, imprisonment in jail for from three to six months, or both fine and imprisonment. As soon as the existence of such a nuisance is established an order of abatement directing the sale and removal of the fixtures and furniture must be en-

tered. This property may be released from such confiscation, however, on receipt of a bond from the owner."⁷⁴

By an act of the same General Assembly keepers of houses of ill fame were made liable to be imprisoned in the penitentiary for from one to five years for permitting unmarried women under eighteen years of age to live, board, stop, or room at such places."⁷⁵

THE SALE OF INTOXICATING LIQUORS AND NARCOTICS

Since the *Code of 1897* there have been no fundamental changes in the regulation of the liquor traffic in Iowa. The system of the mullet tax — neither prohibition nor license — has been retained. Every General Assembly, however, since 1897, with the exception of the Twenty-seventh, has had a hand in making some modification. The number of saloons has steadily decreased."⁷⁶

The Twenty-eighth General Assembly began by placing the ban on the solicitation of orders for intoxicating liquor along with the manufacture and sale thereof. Moreover, the procuring of liquor for a minor, inebriate, or intoxicated person was made just as much of an offense as the selling or giving of it, while the penalty was specifically made applicable to each separate offense. A permit-holder was made responsible for the acts of his partner. By concurrent resolution of the same General Assembly the Board of Regents of the State University and the Boards of Trustees of the other State educational institutions were requested to adopt and en-

force rules against the use of intoxicating liquor by students.⁷⁷⁷

In 1902 laws making only technical changes were passed in relation to the abatement of a liquor nuisance, to the listing of places where liquor is sold and the assessment of the mullet tax, and to the surety on bonds of parties keeping intoxicating liquors for sale.⁷⁷⁸

A "bootlegger" was defined by the Thirtieth General Assembly as one who shall "keep or carry around on his person, or in a vehicle, or leave in a place for another to secure, any intoxicating liquor . . . with intent to sell or dispose of the same by gift or otherwise, in violation of law", and the penalty of being enjoined for such conduct was established.⁷⁷⁹

The same General Assembly also improved the manner of bringing and prosecuting injunction actions for the suppression of the illegal sale of intoxicating liquors, and required that the county auditor keep a special "Mullet Tax Account". An application for a permit to sell liquor was required to be published not "for three consecutive weeks" but "once each week" for three consecutive weeks.⁷⁸⁰

The General Assembly of 1906 amended the process for the collection of delinquent mullet taxes, included cemeteries among the places within three hundred feet of which saloons must not be maintained, and limited the validity of a petition of consent to a period of five years.⁷⁸¹

The penalty for the sale of intoxicating liquor to

minors, drunkards, and intoxicated persons was changed in 1907 from a fine of one hundred dollars to one of not less than twenty-five nor more than two hundred dollars. The sale of liquor within a mile of a permanent military post or reservation established by the United States was prohibited and the punishment of a maximum fine of fifty dollars, a term in the county jail for not longer than thirty days, or both the fine and imprisonment was provided for each offense in violation of the law. Furthermore, the Thirty-second General Assembly made the mulct tax applicable to those persons who engage in the business of storing intoxicating liquors and collecting the purchase price for the owner from those to whom the liquors have been conditionally sold or from those not authorized by law to sell them.⁷⁸²

The passage of the Moon Law was one of the important pieces of work accomplished by the Thirty-third General Assembly. This act limits the number of persons to whom consent to retail liquor as a beverage may be granted to one for every one thousand inhabitants, but in towns of less than one thousand population one person may still be permitted to operate. In cities and towns where there is an excess in the number of saloons, however, resolutions of consent need not be withdrawn nor denied renewal except to such persons as sell intoxicating liquor in violation of the law, and persons convicted of violating the liquor laws may not again be permitted to sell within the space of five years.⁷⁸³

Another significant law enacted in 1909 relating to the sale of intoxicating liquors was that which prohibited any but qualified electors of the locality from retailing liquor. Persons, firms, associations, or corporations engaged in the manufacture of intoxicating liquors, or officers, members, stockholders, agents, or employees of those manufacturers were also excluded from any connection whatsoever with the retail business.⁷⁸⁴

Two other liquor laws were passed by the Thirty-third General Assembly. One made some technical changes in the manner of disposing of money derived from the mulct tax; and the other prescribed a blank requisition form to be filled out and signed in ink by each person purchasing liquor of a pharmacist who has a permit to sell.⁷⁸⁵ The Thirty-fourth General Assembly, however, made it permissible for permit-holders to fill out the application blanks themselves, although the applicant must still sign the blank in person. This General Assembly also increased the penalty for the first offense against the law prohibiting the manufacturing and sale of liquor by making the maximum fine two hundred in place of one hundred dollars, and for the second and subsequent offenses the jail sentence was increased to one year instead of six months. The other penalties in this regard remained the same.⁷⁸⁶

Since 1911 wholesale drug companies with a registered pharmacist in their employ who holds a permit may sell liquor to any registered pharmacist doing a general business in the State and to licensed

physicians. For shipment the liquor may be enclosed in the same box or package as other drugs, but the bill of lading must state the amount and kind of liquor in the shipment.⁷⁸⁷

In an act regulating mines and mining, intoxicated persons and intoxicants were excluded from all mines and the surrounding premises.⁷⁸⁸

Finally, the Thirty-fourth General Assembly directed the county attorney of each county to secure quarterly and file with the county auditor for public inspection a list of the names of persons holding Federal liquor licenses, except those operating under the mulct law and permit-holding pharmacists. The possession of a Federal liquor license by any others is deemed *prima facie* evidence of the violation of the liquor laws of the State.⁷⁸⁹

Aside from giving the county attorney power to require peace officers to make special investigations of alleged infractions and report in writing, and the prohibition of bringing intoxicants into certain State institutions, three liquor laws of importance were placed upon the statute books by the Thirty-fifth General Assembly.⁷⁹⁰ One law reduced the hours during which saloons may remain open from between five A. M. and ten P. M. to between seven A. M. and nine P. M.

Another law adopted in 1913 was the much mooted "Five Mile Bill" which prohibits the sale of intoxicating liquors within five miles of any normal school, college, or university under the State Board of Education. The law does not, however, affect the

manufacture of beer, nor does it go into effect until the petitions of consent granted prior to the enactment of the law expire. As a matter of fact circumstances are such that the law applies only to Iowa City where the petitions of consent expire on July 1, 1916.

The third liquor law passed by the Thirty-fifth General Assembly was a modification of the Moon Law in its application to special charter cities. It provides that resolutions of consent must be withdrawn by July 1, 1913, from one-third of the number of saloons in excess of the ratio of one to every one thousand inhabitants, from one-half of the remaining number in excess by July 1, 1914, and by July 1, 1915, all the petitions of consent in excess of the legal number must be extinguished.

In 1913 a law was placed among the statute books of the State which empowers the principal of a county high school to prohibit the use of tobacco in any form by any student under his jurisdiction. The school board is given the same control over pupils in the grade schools. The method of enforcement is through punishment by the suspension or expulsion of the offender from school.⁷⁹¹

In 1909 the issuance of a search warrant and the seizure and destruction of cigarettes and cigarette papers were authorized upon information being filed on oath by any reputable citizen; and the discovery of cigarettes or cigarette papers in any public place was designated as *prima facie* evidence of

the violation of the law, whereupon the mulct tax of three hundred dollars is to be levied and collected. The same General Assembly made it unlawful for any person under twenty-one years of age "to smoke or use a cigarette or cigarettes on the premises of another, or on any public road, street, alley or park or other lands used for public purposes or in any public place of business or amusement, except when in company of his parent or guardian." Anyone guilty of such an act is liable to be fined not exceeding ten dollars or imprisoned in the county jail for not exceeding three days, but the sentence may be suspended if the person will give evidence leading to the arrest of the one from whom the cigarettes or cigarette papers were obtained.⁷⁹²

In 1913 the bringing of opium into certain State institutions was prohibited along with intoxicating liquors.⁷⁹³

VITIATING INFLUENCES

The Thirtieth General Assembly decreed that "no bills, posters or other matter used to advertise the sales of intoxicating liquors or tobacco shall be distributed posted painted or maintained within four hundred feet of premises occupied by a public school or used for school purposes". The maximum fine or imprisonment was fixed at one hundred dollars or thirty days.⁷⁹⁴

In 1907 cities and towns were empowered "to regulate, define, tax, license or prohibit public dance halls, skating rinks, fortune-tellers, palmists, and clairvoyants", to regulate the construction and loca-

tion of bill-boards, and to license and tax the owners or persons maintaining them.⁷⁹⁵

Finally, secret societies and fraternities have been prohibited in public schools since 1909. The enforcement of the law is in the hands of the directors, who have power to suspend, expel, or exclude from graduation or participation in school honors any pupil who violates the rules laid down. Furthermore, it is a misdemeanor for anyone outside of school to solicit a pupil while at school to join any society or fraternity organized outside of the school, and the penalty for so doing is a fine of not less than two nor more than ten dollars, or imprisonment for not longer than ten days if the fine is not paid.⁷⁹⁶

The Twenty-eighth General Assembly gave cities power to suppress, restrain, and prohibit gambling-houses and punish the keepers and frequenters thereof.⁷⁹⁷ In 1911 it was made unlawful for anyone to possess a roulette wheel, klondyke table, poker table, faro, or keno layout except for the purpose of destruction, and provision was made for the seizure and destruction of such instruments.⁷⁹⁸

CRUELTY TO ANIMALS

The Thirtieth General Assembly made it unlawful to dock horses' tails in Iowa, and anyone doing so may be fined as much as one hundred dollars or imprisoned for as many as thirty days.⁷⁹⁹

In 1907 the section relating to cruelty to animals as found in the *Code of 1897* was rewritten and the provision added that "whether the acts or omissions

herein contemplated be committed either maliciously, willfully or negligently'' the punishment shall remain the same.⁸⁰⁰

XVIII

LEGISLATION GOVERNING DOMESTIC RELATIONS

The regulations of domestic relations is one of the oldest forms of social legislation.⁸⁰¹ In Iowa the laws governing family life have not kept pace with other phases of social regulation and reform. While the existing statutes are far from perfect there has in recent years been but little effort to better conditions.

It was in 1902 that the right of inheritance was declared to be the same between parents and children by adoption as between parents and children of lawful birth.⁸⁰²

The Thirty-first General Assembly passed an act which required that divorces as well as marriages should be recorded by the clerk of the district court and reported by him to the secretary of the State Board of Health. The time of making such reports was changed from June 1st to August 1st, and the data to be included was to be for the year ending on June 30th previous instead of on December 31st. The section in the *Code of 1897* of which this act was amendatory was repealed by the same General Assembly a month and a half later, but no alterations appeared in the substitute act.⁸⁰³

Since 1907 neither party to a divorce has been able to marry again within a year from the date of the filing of the decree unless special permission to do so is granted by the court in the decision, but the persons divorced may again marry each other at any time.⁸⁰⁴

It was also in 1907 that desertion was defined and made a penitentiary offense. "Every person who shall, without good cause," reads the law, "willfully neglect or refuse to maintain or provide for his wife, she being in a destitute condition, or who shall, without good cause, abandon his or her legitimate or legally adopted child or children under the age of sixteen years, leaving such child or children in a destitute condition, or shall, without good cause, willfully neglect or refuse to provide for such child or children they being in a destitute condition, shall be deemed guilty of desertion and, upon conviction, shall be punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not more than six months." In this instance a husband or wife may testify against the other but can not be compelled to do so. If, however, the person accused should, before sentence is pronounced, give a bond of not exceeding \$1000 for the necessary support he may be released.⁸⁰⁵

First cousins can no longer obtain a license to marry.⁸⁰⁶ Laws restricting the marriage of epileptics and syphilitics were declared to be null and void by the Thirty-fifth General Assembly providing such persons submit to being asexualized. The returns

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of the performance of all marriage ceremonies must now be made within fifteen days. In 1913 all the decrees of courts to annul marriages in which the service of the original notice had been made by publication (whereas the law now requires such notice to be given by personal service) were validated.⁸⁰⁷

NOTES AND REFERENCES

NOTES AND REFERENCES

CHAPTER I

¹ "Therefore, if government could be in the hands of social scientists instead of social empiricists, it might be elevated to the rank of an applied science, or the simple application of the scientific principles of social phenomena. . . . Society, possessed for the first time of a completely integrated consciousness, could at last proceed to map out a field of independent operation for the systematic realization of its own interests". — Ward's *Dynamic Sociology*, Vol. II, p. 249.

² Woodrow Wilson prefers to characterize paternalistic legislation as "interference", holding that "the state should do nothing which is equally possible under equitable conditions to optional associations". He describes regulation as the "equalization of the conditions of endeavor". — Wilson's *The State*, pp. 633, 636, 637.

³ "Social legislation is a vague term, for the law itself, in its traditional as well as in its imperative element, is a social mechanism, and all legislation therefore, in one aspect at least, is social." — James's *Some Implications of Remedial and Preventive Legislation in the United States* in *The American Journal of Sociology*, Vol. XVIII, p. 771.

⁴ Willoughby, having divided the functions of the state into "essential" and "non-essential" elements after this fashion, proceeds to classify those functions which pertain to the economic, industrial, and moral interests of the people as being "socialistic" or "non-socialistic". The former include those things which will be done by society, such as the operation of railroads and telegraph lines, and the latter those which if undertaken at all must be done by the government, public education being an instance in point. — Willoughby's *The Nature of the State*, pp. 309-350.

⁵ James's *Some Implications of Remedial and Preventive Legislation in the United States* in *The American Journal of Sociology*, Vol.

XVIII, pp. 781-783. At the same time, "social interference should not be so paternal as to check the self-extinction of the morally ill-constituted", and conversely, neither should it "so limit the struggle for existence as to nullify the selective process." — Ross's *Social Control*, pp. 423, 425.

⁶ Jenk's *Governmental Action for Social Welfare*, p. 124.

⁷ Louisiana, New Mexico, and Arizona, for historical reasons, derive much of their law from the continental system which is based on the Civil Law of Rome. Of the States retaining the Common Law, some have enacted its principles into statutory form, still more have made legislative additions to it, but very little of it has been repealed and not much changed. Some of the States, including Iowa, have codified the Common Law, which means almost complete enactment, and in this State there are no Common Law crimes, nor are there any offenses, legally, except those specifically designated in the statutes. — Stimson's *State Statute and Common Law in the Political Science Quarterly*, Vol. II, pp. 115, 116.

CHAPTER II

⁸ It is significant that by 1911 comment became so frequent that in the *Readers' Guide to Periodical Literature* a separate topic was made of social legislation as distinct from legislation in general.

⁹ Beard's *American Government and Politics*, pp. 722, 723; Leacock's *Elements of Political Science*, pp. 364, 365.

¹⁰ Ward's *Applied Sociology*, p. 13.

¹¹ Merriam's *A History of American Political Theories*, pp. 47-55, 60-63; Merriam's *Outlook for Social Politics in the United States in The American Journal of Sociology*, Vol. XVIII, p. 676; Beard's *American Government and Politics*, p. 723.

¹² Merriam's *A History of American Political Theories*, pp. 76-83.

¹³ Gibbins's *The Industrial History of England*, pp. 70-71, 78-81, 83, 106, 107, 142; Traill's *Social England*, Vol. III, pp. 30-32, 114-118; Terry's *A History of England*, p. 996.

¹⁴ Beard's *American Government and Politics*, p. 732; Ely's *Studies in the Evolution of Industrial Society*, p. 58.

¹⁵ The "corn laws" were protective tariffs which practically prohibited the importation of foreign grain except when the market rose to famine prices.

¹⁶ Bosanquet's *The Strength of the People*, pp. 145-149, 154, 155; Gibbins's *The Industrial History of England*, pp. 178-181, 187, 188.

¹⁷ Dicey's *Law and Opinion in England*, pp. 63, 106, 114, 125-131; Gibbins's *The Industrial History of England*, p. 181.

¹⁸ The regulation of labor conditions which began in the factories was later extended to include mining and other industries. Throughout the whole struggle for the betterment of factory employment the land-owners took sides with the working people and while they succeeded in passing the Factory Acts the manufacturers, with the support of the industrial classes, secured the repeal of the "corn laws" in retaliation. — Bosanquet's *The Strength of the People*, p. 167; Gibbins's *The Industrial History of England*, p. 185.

¹⁹ Ely's *Studies in the Evolution of Industrial Society*, p. 60. The organization of the working classes first found expression in the Chartist movement. The Combination Laws had prevented workingmen from meeting to deliberate over their various industrial interests and the Reform Act of 1832 had merely transferred the control in Parliament from the upper to the middle classes without improving the condition of the workingmen. Associations were thereupon formed among industrial workers who demanded universal suffrage, abolition of property qualifications for members of Parliament, annual Parliaments, equal representation, compensation for members of Parliament, and vote by ballot. Nothing definite was accomplished and the Chartist agitation died out in 1848. — Terry's *A History of England*, pp. 1002, 1003; Green's *A Short History of the English People*, pp. 839, 840.

²⁰ Gibbins's *The Industrial History of England*, pp. 183-185; Bosanquet's *The Strength of the People*, pp. 212-216; Dicey's *Law and Opinion in England*, pp. 266, 272, 282-285.

²¹ Bosanquet's *The Strength of the People*, pp. 165, 166; Dicey's *Law and Opinion in England*, p. 291.

²² Beard's *American Government and Politics*, p. 722; Hart's *National Ideals Historically Traced in The American Nation Series*, pp. 234, 235; Leacock's *Elements of Political Science*, p. 387.

²³ Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 215, 225, 237.

²⁴ Fairlie's *Local Government in Counties, Towns, and Villages*, p. 215; Beard's *American Government and Politics*, pp. 748, 749.

²⁵ Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 225, 226; *Proceedings of the Annual Congress of the American Prison Association*, 1913, pp. 445-450. Prior to the establishment of State prisons other forms of punishment were more common than confinement. "The tread-mill was always going. The pillory and the stocks were never empty. The shears, the branding-iron, and the lash were never idle for a day."—McMaster's *A History of the People of the United States*, Vol. I, p. 100.

²⁶ Merriam's *A History of American Political Theories*, pp. 176-178; Beard's *American Government and Politics*, pp. 108-111.

²⁷ Merriam's *A History of American Political Theories*, p. 187.

²⁸ Merriam's *A History of American Political Theories*, pp. 216, 217; McMaster's *A History of the People of the United States*, Vol. VII, pp. 135-151, 153-157, 183, 185; *The Americana Encyclopedia*, Vol. IX, under the heading of Lottery; Debar's *Prohibition: Its Relation to Good Government*, pp. 7-13.

²⁹ Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 226, 227.

³⁰ Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 227-229; McMaster's *A History of the People of the United States*, Vol. VII, pp. 151-153.

³¹ Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 237-246; Beard's *American Government and Politics*, pp. 742, 743.

³² Merriam's *A History of American Political Theories*, pp. 304, 322; Leacock's *Elements of Political Science*, pp. 386, 387; Ely's *Studies in the Evolution of Industrial Society*, p. 88.

³³ Ely's *Studies in the Evolution of Industrial Society*, pp. 89, 98, 99, 446, 447; Adams's *Economics and Jurisprudence in the American Economic Association Studies*, Vol. II, pp. 14, 15 (1897); Leacock's *Elements of Political Science*, p. 369; Merriam's *Outlook for Social Politics in the United States* in *The American Journal of Sociology*, Vol. XVIII, pp. 683-685.

³⁴ Merriam's *Outlook for Social Politics in the United States in The American Journal of Sociology*, Vol. XVIII, pp. 677-679, 686, 687; Beard's *American Government and Politics*, p. 742. Even as late as 1911 the Court of Appeals of New York said, "Under our form of government, however, courts must regard all economic, philosophical, and moral theories, attractive and desirable though they may be, as subordinate to the primary question whether they can be molded into statutes without infringing upon the letter or spirit of our written constitutions." — Pound's *Social Problems and the Courts in The American Journal of Sociology*, Vol. XVIII, p. 334.

³⁵ Merriam's *American Political Theories*, pp. 316, 322, 343-345; Ely's *Studies in the Evolution of Industrial Society*, pp. 62-65; James in the *Publications of the American Economic Association* (First Series, 1887), Vol. I, p. 26.

³⁶ James's *Some Implications of Remedial and Preventive Legislation in the United States in The American Journal of Sociology*, Vol. XVIII, pp. 769, 783.

CHAPTER III

³⁷ In 1839 the Judicial Committee of the House reported a list of thirty-four acts of the Territories of Wisconsin and Michigan which were in force in Iowa. — *House Journal*, Territory of Iowa, 1839-1840, pp. 51, 52.

³⁸ Henderson's *An Introduction to the Study of Dependent, Defective and Delinquent Classes* (Second Edition), p. 8.

³⁹ Insane persons have no right to vote and are not responsible for acts which in others would be criminal, while every precaution is taken lest they be punished contrary to law. — *Constitution*, Art. II, Sec. 5; Ebersole's *Encyclopedia of Iowa Law*, p. 103.

The duties of guardians of insane persons in respect to the management of property are by statute the same as those of guardians of minors. — *Gates vs. Carpenter*, 43 Iowa 152, at 154; *Revision of 1860*, Sec. 1451.

⁴⁰ *Laws of the Territory of Iowa, 1838-1839*, pp. 74, 275, 276.

⁴¹ Henderson's *An Introduction to the Study of Dependent, Defective and Delinquent Classes* (Second Edition), p. 8.

⁴² *Laws of the Territory of Iowa*, 1838-1839, pp. 120, 121, 142, 170-172.

⁴³ *Laws of the Territory of Iowa*, 1838-1839, pp. 158, 159, 365-369, 443, 445, 446, 455, 456.

⁴⁴ *Laws of the Territory of Iowa*, 1838-1839, pp. 327-329, 447-450, 457.

⁴⁵ *Laws of the Territory of Iowa*, 1838-1839, pp. 142-147, 155, 156, 160-166, 172, 221-224, 274, 401, 513, 514.

⁴⁶ *Laws of the Territory of Iowa*, 1838-1839, pp. 47-49, 179, 180, 347-350.

Professor George Elliott Howard defines domestic relations as the "trinity of institutions, marriage, family, and the home" constituted of the "triad of personalities, the father, mother, and child". — Howard's *Social Control of the Domestic Relations in The American Journal of Sociology*, Vol. XVI, p. 805.

The first class legislation in Iowa was an act of the first Legislative Assembly relative to blacks and mulattoes. Before entering the Territory they had to show a certificate of freedom and give a bond of five hundred dollars to insure good behavior. Anyone hiring a colored person who had not complied with these provisions became subject to a fine of from five to one hundred dollars. — *Laws of the Territory of Iowa*, 1838-1839, pp. 65-67.

⁴⁷ The first poor law was passed in 1840. It vested the county commissioners with "entire and exclusive superintendence of the poor", made parents and children responsible for the support of each other, and laid down rules governing settlement. — *Laws of the Territory of Iowa*, 1839-1840, pp. 83, 84.

⁴⁸ *Revised Statutes of the Territory of Iowa*, 1842-1843, pp. 490-498.

⁴⁹ *Revised Statutes of the Territory of Iowa*, 1842-1843, pp. 285-291.

⁵⁰ *Revised Statutes of the Territory of Iowa*, 1842-1843, pp. 211, 212, 235, 236, 483-490.

⁵¹ *Revised Statutes of the Territory of Iowa*, 1842-1843, pp. 171, 191, 273-277, 294, 295, 613. It is interesting to observe that up until 1858, when general banking was authorized, banking associations were classed with lotteries as constituting offenses against the public policy. — *Code of 1851*, p. 378; *Revision of 1860*, p. 749.

⁵² *Revised Statutes of the Territory of Iowa, 1842-1843*, pp. 198-201, 237-241, 434-437.

⁵³ *Revised Statutes of the Territory of Iowa, 1842-1843*, p. 475.

CHAPTER IV

⁵⁴ *Code of 1851*, Secs. 224, 786-847.

⁵⁵ *Code of 1851*, Secs. 1186-1189.

⁵⁶ *Code of 1851*, Secs. 857, 862.

⁵⁷ *Code of 1851*, Secs. 48, 148, 149, 3105.

The *Code of 1873* stipulated that the Secretary of State should report criminal returns to the Governor before each regular session of the General Assembly rather than to the legislature direct. In the *Code of 1897* it was provided that the sheriff's calendar should contain in addition to the items already mentioned, the term of commitment of prisoners and a record of their occupation, education, and general habits. The county auditor was to give the clerk of the court the data relative to expenditures for criminal prosecutions. — *Code of 1873*, Sec. 63; *Code of 1897*, Secs. 475, 5641.

⁵⁸ *Code of 1851*, Secs. 2817, 2818, 2565, 2569, 2676, 3211.

⁵⁹ *Code of 1851*, Secs. 3103, 3104, 3108, 3110. The district clerk was substituted for the judge as jail inspector in the law as found in the *Code of 1897*, Sec. 5645.

⁶⁰ *Code of 1851*, Secs. 2668, 3071, 3107, 3109, 3115, 3116, 3268.

There can not be imprisonment for the non-payment of a fine, however, except when the judgment so orders. *Lanpher vs. Dewell*, 56 Iowa 153, at 156. Furthermore, when a poor person imprisoned for the non-payment of a fine is liberated after thirty days the judgment against him is cancelled thereby. — *State vs. Van Vleet*, 23 Iowa 168; *State vs. Peck*, 37 Iowa 342.

⁶¹ *Code of 1851*, Secs. 3120-3142, 3144, 3153. The inspectors were allowed for their services three dollars a day for each day actually occupied in inspecting the prison, while the warden received five hundred dollars a year. — *Code of 1851*, Sec. 3154.

⁶² *Code of 1851*, Secs. 3118, 3119, 3143, 3145, 3146, 3148-3152.

⁶³ *Code of 1851*, Secs. 2661-2667, 3147.

⁶⁴ *Constitution of Iowa*, Art. IV, Sec. 13; *Code of 1851*, Secs. 3278-3281.

⁶⁵ *Code of 1851*, Secs. 3310-3321.

⁶⁶ *Code of 1851*, Secs. 1005, 1010, 1490, 1901. The exemption of earnings from execution applies to professional men as well as to laborers. — *McCoy vs. Cornell*, Ward & Comings, 40 Iowa 457.

⁶⁷ *Code of 1851*, Secs. 2725-2727, 2729.

⁶⁸ *Code of 1851*, Secs. 2131-2133, 2759-2766. This penalty applies to all the nuisances named above.

⁶⁹ *Code of 1851*, Secs. 515, 516, 577, 582.

⁷⁰ *Code of 1851*, Secs. 2596, 2728.

⁷¹ *Code of 1851*, Secs. 2565-2577, 2585, 2588, 2589, 2591, 2593, 2594, 2597.

⁷² *Code of 1851*, Secs. 2673, 2718, 2719, 2738-2743.

⁷³ *Code of 1851*, Sec. 2717.

⁷⁴ *Code of 1851*, Secs. 1482, 2584, 2705, 2706, 2708, 2709, 3310. For the violation of sepulchre and indecent exposure of dead human bodies offenders were punishable by imprisonment in jail for not exceeding a year, by being fined not over \$1000, or both. — *Code of 1851*, Sec. 2714.

⁷⁵ *Code of 1851*, Secs. 2710-2713, 2761, 3310.

⁷⁶ *Code of 1851*, Secs. 2581-2583, 2586, 2587, 2592.

⁷⁷ *Code of 1851*, Secs. 924-936, 2735. The law prohibiting the sale of intoxicating liquor by the glass was held to be constitutional by the Supreme Court of Iowa in 1854. — *Zumhoff vs. State*, 4 Green 526.

⁷⁸ *Code of 1851*, Secs. 2721-2724, 2730, 2761.

Under the section prohibiting gambling and betting the Supreme Court of Iowa has on two occasions held that to play billiards and pool with the agreement that the loser should pay for the game is gambling and that such persons are guilty of a misdemeanor. — *State vs. Book*, 41 Iowa 550, at 552; *State vs. Miller and Kremling*, 53 Iowa 154, at 155.

⁷⁹ *Code of 1851*, Sec. 2716.

⁸⁰ *Code of 1851*, Secs. 1464, 1465, 1472, 1479, 1482, 1487, 1542, 2256, 2391.

CHAPTER V

⁸¹ *Revision of 1860*, Secs. 312, 1111. Special charter cities were allowed to maintain an infirmary and distribute outdoor relief according to the *Code of 1897* (Sec. 957) while commission-governed cities were admitted to the same privilege in 1907 (*Laws of Iowa*, 1907, p. 39.)

⁸² *Revision of 1860*, Secs. 2141, 2144, 2147, 2153, 2155-2157.

Persons not residents of the State, otherwise eligible to admittance in either asylum were to be granted the benefits of those institutions upon the payment of thirty-five dollars a quarter in advance.—*Revision of 1860*, Secs. 2148, 2160.

⁸³ *Revision of 1860*, Secs. 1425, 1436-1439, 1442, 1458-1465, 1467, 1468, 1471, 1474, 1478, 1479, 1483, 1494, 1495.

Concerning the distinction between insanity and idiocy the Supreme Court of Iowa decided in 1885 that a girl who, being of sound mind until nine years of age, then became affected with epilepsy and gradually lost her reason until she was unable to take the slightest care of herself and in common parlance was termed an idiot, was technically insane, for the term idiot according to statute was "restricted to persons foolish from birth, supposed to be naturally without mind."—*Speedling vs. Worth County*, 68 Iowa 152, at 153.

⁸⁴ *Revision of 1860*, Secs. 1449-1457.

⁸⁵ *The American Year Book*, 1910, p. 458; *Revision of 1860*, Sec. 1112.

By setting children apart for a special mode of treatment a third class of delinquents—juvenile delinquents—was created in Iowa: criminals and vagrants constitute the other two classes.

⁸⁶ *Revision of 1860*, Secs. 1116, 4881.

⁸⁷ *Revision of 1860*, Secs. 5153, 5157, 5173-5189, 5196. The salary of the warden was \$1000 a year, that of the clerk and deputy warden \$750 a year, the chaplain was to be paid at the rate of \$500 a year for the time actually employed, and night guards were to receive \$50, wall guards \$40, and shop guards \$30 a month for their services.—*Revision of 1860*, Secs. 5190-5193.

⁸⁸ *Revision of 1860*, Secs. 5161, 5167, 5169.

⁸⁹ *Revision of 1860*, Secs. 5116-5121. In 1872 the Governor was allowed to take testimony from persons having it to offer in cases of application for pardons, reprieves, commutations or the remission of fines. — *Laws of Iowa*, 1872 (Public), p. 103.

⁹⁰ *Revision of 1860*, Secs. 1846, 1854, 1872, 3294.

⁹¹ *Revision of 1860*, Secs. 1057, 1064, 1070, 1096, 1097, 1110. The power of cities to abate nuisances did not authorize them to punish such offenders. — *Nevada vs. Hutchins*, 59 Iowa 506; *Knoxville vs. Chicago, Burlington & Quincy Railroad Company*, 83 Iowa 636; *Chariton vs. Barber*, 54 Iowa 360.

⁹² *Revision of 1860*, Secs. 4371, 4376.

⁹³ *Revision of 1860*, Secs. 1057, 1058.

⁹⁴ *Revision of 1860*, Secs. 1096, 1763-1768.

⁹⁵ *Revision of 1860*, Secs. 908, 1057, 1097, 1331, 4331. The responsibility of cities and towns to construct and repair bridges and culverts within their limits was made more specific in the *Code of 1897*, Sec. 527.

⁹⁶ *Revision of 1860*, Sec. 4374.

⁹⁷ *Revision of 1860*, Secs. 4220, 4221.

⁹⁸ *Revision of 1860*, Secs. 1057, 1108, 4360, 4361, 4386-4390, 4392, 4393.

The acts of rioting, fighting or offering to fight, and fishing have since been omitted from the list of offenses described as constituting breach of the Sabbath. — *Code of 1897*, Sec. 5040.

⁹⁹ *Revision of 1860*, Secs. 299-301, 1062, 4359. The law in the *Code of 1897* required shows exhibiting outside of cities to obtain the license from the county auditor. — *Code of 1897*, Sec. 1349.

¹⁰⁰ *Revision of 1860*, Secs. 1057, 4367-4370.

¹⁰¹ *Revision of 1860*, Secs. 1063, 1559-1587.

¹⁰² *Revision of 1860*, Sec. 1583.

¹⁰³ *Revision of 1860*, Secs. 1568, 1586.

¹⁰⁴ *Revision of 1860*, Secs. 1057, 1063, 4365, 4377.

¹⁰⁵ *Revision of 1860*, Sec. 4358.

¹⁰⁶ *Revision of 1860*, Secs. 2534, 2538, 2568, 2569.

¹⁰⁷ *Revision of 1860*, Secs. 2600-2604. The specific declaration that the right of inheritance existed between foster parents and children was omitted in the *Code of 1897*, but was reenacted in 1902.

CHAPTER VI

¹⁰⁸ *Code of 1873*, Secs. 1331, 1343, 1352. In fact practically all of the laws discriminating against negroes had been abrogated by 1873. Now there are laws expressly in their favor, of which one stipulating that all persons in Iowa are alike entitled to the "full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, restaurants, chop houses, eating houses, lunch counters and other places where refreshments are served, public conveyances, barber shops, bath houses, theaters and all other places of amusement" is of special importance to the labor unions. — *Code of 1897*, Sec. 5008.

¹⁰⁹ *Code of 1873*, Secs. 1361-1363.

¹¹⁰ *Code of 1873*, Secs. 1623-1642.

¹¹¹ *Code of 1873*, Secs. 1664-1684. The first State institution for the education of the blind was established in Ohio in 1837. In 1913 forty-one States had made similar provision. These institutions for the education of the blind are almost invariably boarding schools. — *Cyclopedia of American Government*, Vol. I, pp. 639, 640.

¹¹² *Code of 1873*, Secs. 1685-1696. Public education for the deaf was provided even earlier than that of the blind, Kentucky having established the first State school in 1822. In 1911 there were fifty-seven such State institutions and nearly one hundred private ones. There were also fifty-three day schools, twenty of which were in Wisconsin. — *Cyclopedia of American Government*, Vol. I, pp. 541, 542.

¹¹³ *Code of 1873*, Secs. 1383-1445.

¹¹⁴ Bowman's *The Administration of Iowa*, p. 107.

This central visiting committee was abolished when the State Board of Control was created, as were also the visiting committees from the local boards of trustees.

¹¹⁵ The superintendents of the two hospitals were to adopt rules "in regard to what patients, or class of patients, shall be admitted to and provided for in the respective hospitals; or from what portion of the state patients, or certain classes of patients, may be sent to each or either hospital".— *Code of 1873*, Sec. 1432.

¹¹⁶ The *Code of 1897* employs the phraseology, "charged with a crime but not convicted thereof nor on trial therefor."— *Code of 1897*, Sec. 2279.

¹¹⁷ The *Code of 1897* adds that in any case of a patient dying in one of the hospitals for the insane should the relatives request it an inquest had to be held.— *Code of 1897*, Sec. 2303.

¹¹⁸ *Code of 1873*, Secs. 2272, 2279. A person of unsound mind is one who is incapable of transacting the particular business in hand. It is not necessary that he be insane or a distracted person, and he may even be capable of transacting some kinds of business and yet be of unsound mind and incapable of transacting business of magnitude, or of some degree of intricacy.— *Seerley vs. Sater*, 68 Iowa 375, at 376.

¹¹⁹ *Code of 1873*, Secs. 3845, 3849, 4104, 4107.

¹²⁰ *Code of 1873*, Secs. 4736-4743.

¹²¹ *Code of 1873*, Secs. 3953, 3955, 3958.

¹²² *Laws of Iowa*, 1872 (Public), pp. 49-52.

¹²³ *Code of 1873*, Secs. 4748, 4758-4766, 4779, 4783, 4785; *Laws of Iowa*, 1878, p. 134.

The *Code of 1897* made the monthly support for each convict at Fort Madison nine dollars and for each one at Anamosa nine dollars and fifty cents, but at Fort Madison this allowance was still subject to the deduction of the amount charged to the contractors of convict labor for that month.— *Code of 1897*, Sec. 5718.

¹²⁴ *Code of 1873*, Sec. 4712.

¹²⁵ *Code of 1873*, Secs. 1643 1648.

¹²⁶ *Code of 1873*, Secs. 1644, 1647, 1650-1652.

Following the same method as was adopted for other institutions, the reports of the Reform School, under the law as found in the *Code of 1897*, were made to the Governor rather than to the General Assembly.— *Code of 1897*, Sec. 2705.

¹²⁷ The establishment of the juvenile court in 1904 did not change, in effect, the method of procedure.

¹²⁸ *Code of 1873*, Secs. 1653-1660.

¹²⁹ *Code of 1873*, Secs. 1649, 1660-1663.

¹³⁰ *Code of 1873*, Sec. 4140.

¹³¹ *Code of 1873*, Secs. 1567-1569, 2129-2146, 2211.

¹³² *Code of 1873*, Sec. 1307.

¹³³ *Code of 1873*, Secs. 415-420, 525; *Laws of Iowa*, 1866, pp. 112-114.

¹³⁴ *Code of 1873*, Secs. 4041, 4055-4059. Any diseased or infected hop roots or cuttings may be seized and destroyed; while anyone bringing such materials into the State may be fined from ten to one hundred dollars or be imprisoned for from five to twenty days. — *Code of 1873*, Secs. 4060, 4061; *Code of 1897*, Secs. 5022, 5023.

¹³⁵ *Code of 1873*, Sec. 4042.

¹³⁶ *Code of 1873*, Secs. 456, 467, 4071.

¹³⁷ *Code of 1873*, Sec. 4038.

¹³⁸ *Code of 1873*, Sec. 3901.

¹³⁹ *Code of 1873*, Sec. 4064. Although this law is still to be found in the statute books, steam and gasoline traction engines have supplanted horse-powers to the extent of rendering this safety precaution obsolete.

¹⁴⁰ *Code of 1873*, Secs. 463, 3845, 3849, 3879, 4023.

¹⁴¹ *Code of 1873*, Secs. 1114, 1116, 1527, 1528, 1531, 1537, 1539, 1556, 1557, 1620, 4044. The *Code of 1897* (Secs. 2417, 2418) extended the liability for damages and the care of an intoxicated person to those who gave liquor as well as those who sold it.

¹⁴² *Code of 1873*, Secs. 1114, 1116. Horse racing at fairs was, however, allowed before the codification of laws in 1897.

¹⁴³ *Code of 1873*, Secs. 4031-4034.

¹⁴⁴ *Code of 1873*, Secs. 2220, 2223, 2231-2236, 2253, 2266, 2269-2271. Reference has already been made to the appointment of guardians for drunkards and spendthrifts in connection with the discussion of the insane in this chapter.

CHAPTER VII

¹⁴⁵ *Code of 1897*, Secs. 2222, 2230, 2238, 2241, 2249, 2252. Osceola, Crawford, Emmet, and Ida counties are the only ones in the State which do not maintain a county home. — *Report of the Board of Control*, pp. 556, 558, in the *Iowa Documents*, 1913, Vol. II.

¹⁴⁶ *Code of 1897*, Sec. 740.

¹⁴⁷ *Laws of Iowa*, 1886, pp. 61-67, 148.

¹⁴⁸ *Code of 1897*, Secs. 2601, 2603.

¹⁴⁹ *Code of 1897*, Secs. 2602, 2605, 2606.

¹⁵⁰ *Code of 1897*, Secs. 2604, 2607.

¹⁵¹ *Code of 1897*, Sec. 2608.

¹⁵² *Code of 1897*, Secs. 430, 431, 433, 434. A one mill tax may be voted in a county for the erection of a soldiers' monument or memorial hall. — *Code of 1897*, Secs. 435, 436.

¹⁵³ *Code of 1897*, Sec. 1304.

¹⁵⁴ While the official title did not suggest the fact, this home was maintained primarily for the benefit of orphans of soldiers and sailors, and so the name was changed to Iowa Soldiers' Orphans' Home in 1898. — *Laws of Iowa*, 1898, p. 46.

¹⁵⁵ *Code of 1897*, Secs. 2683-2692.

¹⁵⁶ *Code of 1897*, Secs. 3255-3260.

¹⁵⁷ *Code of 1897*, Secs. 2719-2722. The Industrial Home for the Blind was the outgrowth of the industrial department for indigent blind persons not capable of being educated.

¹⁵⁸ *Code of 1897*, Secs. 2714, 2715, 2718.

¹⁵⁹ *Code of 1897*, Secs. 2723, 2724, 2726, 2727.

¹⁶⁰ *The American Year Book*, 1910, p. 473.

¹⁶¹ *Code of 1897*, Secs. 2693-2701.

¹⁶² One incident of that change which applies particularly to this institution, however, ought to be noted. The superintendent is required to notify the Board of Control immediately if there is any question as to the propriety of a commitment or the detention of any

person received, and the Board thereupon must investigate and take action. — *Laws of Iowa*, 1898, p. 69.

¹⁶³ *Code of 1897*, Secs. 2253, 2257. The salary of the superintendent was set at \$3000 a year and certain fees as a witness in civil and criminal cases involving the question of insanity. — *Code of 1897*, Secs. 2258, 2293.

¹⁶⁴ *Code of 1897*, Secs. 2267, 2268, 2271, 2307. The *Code of 1897* (Sec. 2261) provided for a board of commissioners of insanity at every place where district court is held.

¹⁶⁵ *Code of 1897*, Sec. 2308.

¹⁶⁶ *Code of 1897*, Secs. 3222, 3225.

The right of the wife and children to support out of the estate of an insane person, however, is subordinate to the rights of creditors. — *Dutch vs. Marvin*, 72 Iowa 663.

¹⁶⁷ *Laws of Iowa*, 1878, pp. 150, 151; *Code of 1897*, Sec. 5096; *Laws of Iowa*, 1902, p. 111.

¹⁶⁸ *Code of 1897*, Secs. 654, 5638, 5639. The provision requiring minors under eighteen years of age to be kept apart from other prisoners applied to the penitentiaries as well as to jails. — *Code of 1897*, Sec. 5693.

¹⁶⁹ *Code of 1897*, Secs. 5661, 5674, 5676, 5702, 5709-5712; *Laws of Iowa*, 1888, p. 88. According to the *Code of 1897* the warden of each penitentiary received a salary of \$166.67 a month and was furnished house rent, fuel, and lights by the State; the clerks got \$100 a month; the deputy wardens \$100 a month, the chaplain \$70; the physician at Fort Madison \$50 and the physician at Anamosa \$100 for his entire time; the assistant deputy warden in charge of the insane department at Anamosa \$83.34; the matrons \$75; and turnkeys and guards \$50 a month. — *Code of 1897*, Secs. 5716, 5717.

¹⁷⁰ *Code of 1897*, Secs. 5682, 5703-5706.

¹⁷¹ The leasing of labor at Anamosa was specifically prohibited in 1876. — *Laws of Iowa*, 1876, p. 33.

¹⁷² *Code of 1897*, Secs. 5702, 5707, 5708.

¹⁷³ *Laws of Iowa*, 1880, p. 167; *Code of 1897*, Secs. 2704, 2706, 2708, 2711-2713. The name Industrial School replaced that of Reform School in 1884. — *Laws of Iowa*, 1884, p. 159.

¹⁷⁴ *Code of 1897*, Secs. 5134-5136, 5138, 5140, 5141.

¹⁷⁵ *Code of 1897*, Secs. 5119, 5142.

¹⁷⁶ *Code of 1897*, Secs. 2469, 2470.

¹⁷⁷ In order to correspond with the legislative period the Commissioner's appointment was changed from even to odd-numbered years in 1906. His biennial report is made in even-numbered years. — *Laws of Iowa*, 1906, p. 71.

¹⁷⁸ *Code of 1897*, Sec. 2477; *Laws of Iowa*, 1907, pp. 127, 128.

¹⁷⁹ *Code of 1897*, Sec. 2477. The salary of the deputy was originally \$1000 a year.

¹⁸⁰ *Code of 1897*, Sec. 2470.

¹⁸¹ *Code of 1897*, Secs. 2471-2475.

¹⁸² See pp. 46, 47, 60, 82.

¹⁸³ *Code of 1897*, Sec. 2490; *Laws of Iowa*, 1900, p. 61.

¹⁸⁴ *Code of 1897*, Secs. 713, 4999, 5026.

¹⁸⁵ *Code of 1897*, Secs. 2478, 2479, 2481, 2483, 2484.

¹⁸⁶ *Code of 1897*, Sec. 2482.

¹⁸⁷ *Code of 1897*, Sec. 2483. Since 1911 this duty has been facilitated by the annual reports from mine-owners or operators, which contain data regarding the quantity of coal mined and the number of persons employed above and below ground. — *Laws of Iowa*, 1911, p. 116.

¹⁸⁸ *Code of 1897*, Secs. 516, 2482.

¹⁸⁹ *Code of 1897*, Sec. 2485.

¹⁹⁰ *Code of 1897*, Sec. 2486.

¹⁹¹ *Code of 1897*, Sec. 2487.

¹⁹² *Code of 1897*, Sec. 2489.

¹⁹³ *Code of 1897*, Sec. 2489.

¹⁹⁴ *Code of 1897*, Sec. 2488.

¹⁹⁵ *Code of 1897*, Secs. 2493-2496.

¹⁹⁶ *Code of 1897*, Secs. 2489, 2491. The law forbidding the em-

ployment of boys under twelve years of age in mines was the first instance of the limitation of child labor in Iowa. When the age of a boy seeking employment was in doubt, the employer had to obtain an affidavit of a parent or guardian in regard thereto. — *Code of 1897*, Sec. 2489.

¹⁹⁷ The Mining Act of 1911 retained the same penalties, as did also the law in relation to gypsum mines in 1913. — *Laws of Iowa*, 1911, pp. 119, 120; *Laws of Iowa*, 1913, pp. 221, 222.

¹⁹⁸ *Code of 1897*, Secs. 2491, 2492.

¹⁹⁹ A regulation affecting railways, but not applying except incidentally to their employees, states that trains must stop at a point between eight hundred and two hundred feet before crossing another railway if no station-house is located at the crossing. — *Code of 1897*, Secs. 2073, 2103.

²⁰⁰ *Code of 1897*, Secs. 2079-2083. The law was passed in 1892 thus giving six years in which to comply.

²⁰¹ *Code of 1897*, Sec. 768.

²⁰² *Code of 1897*, Secs. 2511-2514.

²⁰³ *Code of 1897*, Sec. 2083.

CHAPTER VIII

²⁰⁴ *Code of 1897*, Secs. 2530, 2564, 2565, 2574, 2575, 2576.

²⁰⁵ In 1902 the October meeting was changed to the first Monday in November. — *Laws of Iowa*, 1902, p. 68; *Laws of Iowa*, 1909, p. 153.

²⁰⁶ *Code of 1897*, Secs. 2568, 2570-2573.

²⁰⁷ *Code of 1897*, Secs. 1025-1046.

²⁰⁸ The policy of regulating the practice of certain trades and professions is quite universal, being employed in some States, however, to a greater extent than in others. Iowa has seen fit to exercise control over plumbers, peddlers, itinerant merchants, druggists and doctors, junk dealers, scavengers, pawnbrokers, milk dealers, bill posters, embalmers, nurses, physicians, dentists, opticians, pharmacists, and lawyers. Inasmuch as only a few of these regulations could by any stretch of the imagination be considered as materially affecting

social conditions they have been omitted from consideration. In passing it may be asserted that while it would seem right for the public to know the qualifications of those entering the practice of certain professions or callings, there also seems to be a tendency to subject more trades and professions to this requirement than is necessary. — Fairlie's *Local Government in Counties, Towns, and Villages*, pp. 245, 246; 134 Indiana 665; *Code of 1897*, Secs. 309-316, 700, 2525, 2576, 2588, 2597; *Laws of Iowa*, 1907, pp. 137, 140; 1909, p. 159; 1911, p. 127.

²⁰⁹ *Code of 1897*, Secs. 2573, 4977, 4978.

²¹⁰ *Code of 1897*, Secs. 1040-1042, 2570.

²¹¹ *Code of 1897*, Secs. 1038, 2568; *Report of the State Board of Health*, pp. 272, 273, in the *Iowa Documents*, 1907, Vol. II.

²¹² *Code of 1897*, Secs. 5015-5020.

²¹³ *Code of 1897*, Secs. 2529-2538.

²¹⁴ *Code of 1897*, Secs. 2566, 2567.

²¹⁵ *Code of 1897*, Secs. 2515, 2522, 2524-2526, 2528, 4491.

²¹⁶ *Code of 1897*, Secs. 4981, 4982, 4984, 4986-4988.

²¹⁷ *Code of 1897*, Secs. 4989, 4990.

²¹⁸ *Code of 1897*, Secs. 2516-2518, 4991-4993.

²¹⁹ *Code of 1897*, Secs. 4994-4996.

²²⁰ *Code of 1897*, Secs. 2592, 4985, 4986, 4988.

²²¹ See above, pp. 121, 122.

²²² *Code of 1897*, Secs. 696, 698-700, 737, 738, 791, 794, 797, 881, 952, 960, 965, 1028, 1031.

²²³ *Code of 1897*, Secs. 957, 1030-1033, 1037.

²²⁴ *Code of 1897*, Sec. 2784.

²²⁵ *Code of 1897*, Secs. 1032-1034, 1948, 2569, 5080.

²²⁶ At first thought it would appear that protection against floods would go hand in hand with a discussion of fire protection. But while the county board of supervisors has had the authority to maintain levees in the county and thus protect the land from inundation, the first act which would in any way affect human life even inci-

dentally, and therefore present a social aspect, was passed in 1904 and gave all cities in the State power to protect lots, lands, and property within their limits by improving the water courses and constructing levees. — *Laws of Iowa*, 1904, pp. 24-26. In 1909 this power was extended to towns as well. — *Laws of Iowa*, 1909, p. 43. The laws in Iowa relating to flood protection would be classed as economic rather than as social legislation.

²²⁷ In cities having a population of 5,000 or more a paid fire department may be maintained. Only in special charter cities, however, was authority granted to levy a special tax for the purpose of creating a fire fund. The maximum was three mills on the dollar. The maximum fine for disturbing fire fighting apparatus or turning in false alarms was increased from twenty to twenty-five dollars. — *Code of 1897*, Secs. 716, 952, 1005, 2467, 2468.

²²⁸ *Code of 1897*, Secs. 710-715, 952.

²²⁹ *Code of 1897*, Secs. 863, 874, 876.

²³⁰ *Code of 1897*, Sec. 1052.

²³¹ *Code of 1897*, Sec. 1571. Aside from the regulation of traffic on the highways, cities and towns were empowered to supervise the laying of water, gas, and steam mains and the stretching of telephone, telegraph, and electric wires. They could also cause snow and ice to be removed from sidewalks at the expense of the owner, but not at a higher price than one and one-half cents a foot. — *Code of 1897*, Secs. 781, 875.

²³² *Code of 1897*, Secs. 769, 770, 2072.

²³³ *Code of 1897*, Secs. 2588, 2593.

²³⁴ *Report of the State Board of Health*, p. 249, in the *Iowa Documents*, 1884, Vol. V.

²³⁵ *Code of 1897*, Secs. 2503-2510.

²³⁶ *Code of 1897*, Secs. 4973-4975, 5036-5038.

²³⁷ *Code of 1897*, Secs. 2448, 4951-4956, 4958, 5034.

²³⁸ *Code of 1897*, Sec. 4937; *Laws of Iowa*, 1902, p. 107.

²³⁹ *Code of 1897*, Secs. 2448, 4760, 4943.

²⁴⁰ *Code of 1897*, Secs. 704, 4939, 4942, 4943.

²⁴¹ Quoted in Clark's *History of Liquor Legislation in Iowa* in *The Iowa Journal of History and Politics*, Vol. VI, p. 600.

²⁴² *Code of 1897*, Secs. 2382-2401, 2405-2416, 2419-2431. It will be noted that many of these provisions are similar to those in the *Code of 1873*. The law has been treated in its entirety at this point for the sake of clearness.

²⁴³ *Code of 1897*, Secs. 2432-2461. Liquor regulations as found in the *Code of 1897* apply to special charter cities as well as those under the general incorporation law, although this was not true of the provisions of the original mullet law. — *Code of 1897*, Secs. 1013, 2448; *Clark vs. Riddle*, 70 Northwestern 207.

²⁴⁴ *Code of 1897*, Secs. 2188, 2402-2404.

²⁴⁵ *Code of 1897*, Sec. 5005.

²⁴⁶ *Code of 1897*, Secs. 5006, 5007.

²⁴⁷ *Code of 1897*, Secs. 704, 5003, 5080.

²⁴⁸ *Code of 1897*, Secs. 5002, 5004.

²⁴⁹ *Code of 1897*, Secs. 702, 2448, 4966-4968.

CHAPTER IX

²⁵⁰ *Laws of Iowa*, 1898, pp. 62-76.

²⁵¹ *Laws of Iowa*, 1900, p. 99.

²⁵² *Laws of Iowa*, 1900, p. 99.

²⁵³ *Laws of Iowa*, 1900, p. 99.

²⁵⁴ In 1904 the sum of \$250 annually was appropriated to defray the expenses of persons who should be secured by the Board of Control to read papers at these quarterly conferences concerning the objects and work of one or more of the institutions. — *Laws of Iowa*, 1904, p. 110.

²⁵⁵ *Laws of Iowa*, 1909, p. 170.

²⁵⁶ *Laws of Iowa*, 1906, pp. 26, 27.

²⁵⁷ *Laws of Iowa*, 1913, pp. 21, 22.

CHAPTER X

²⁵⁸ *Laws of Iowa*, 1900, p. 12.

²⁵⁹ *Laws of Iowa*, 1909, pp. 38, 39.

²⁶⁰ *Laws of Iowa*, 1909, pp. 29, 131.

²⁶¹ *Laws of Iowa*, 1913, p. 144.

²⁶² *Laws of Iowa*, 1909, pp. 15-18.

²⁶³ Probation officers came into being with the establishment of juvenile courts, which are created primarily for the purpose of dealing with delinquent children. These officials, however, have been found available in the administration of other laws somewhat akin, the one relating to contributory dependency being an instance in point.

²⁶⁴ *Laws of Iowa*, 1909, p. 15.

²⁶⁵ *Laws of Iowa*, 1909, p. 17.

²⁶⁶ *Laws of Iowa*, 1911, p. 7.

²⁶⁷ During the period under consideration practically \$276,000 has been appropriated for improvements and equipment, new buildings being ordered by every General Assembly except the last two. The building program caused heavy appropriations, the largest of which came in 1902 and amounted to over \$75,000. An old people's building, a headquarters building, a female servants' building, an assembly hall, a laundry building, a kitchen, an ice-house, a greenhouse, a place for married people, a women's dormitory, a quarter-master's building, and hospital facilities have all been added. — *Laws of Iowa*, 1898-1913.

²⁶⁸ *Laws of Iowa*, 1898, p. 44.

²⁶⁹ *Laws of Iowa*, 1902, p. 71.

²⁷⁰ *Laws of Iowa*, 1907, p. 146.

²⁷¹ *Laws of Iowa*, 1913, pp. 21, 244, 332.

²⁷² *Laws of Iowa*, 1902, p. 70.

²⁷³ *Laws of Iowa*, 1913, p. 242. The inclusion of the surgeon among the officers, one of whose qualifications is honorable service in the Civil War, is evidently an oversight in this law. The compensa-

tion of the officers has also been a subject for some legislative action. In 1902 the adjutant, quartermaster, and surgeon were furnished with houses and supplied with lights and water. Heat and fuel were included later. Ice has been furnished to all of the officers, including the commandant, since 1909. The compensation of the commandant is now \$2000, having been raised from \$1800 in 1906.—*Laws of Iowa*, 1902, p. 70; *Laws of Iowa*, 1906, p. 83; *Laws of Iowa*, 1909, p. 158.

²⁷⁴ *Laws of Iowa*, 1906, pp. 83, 84.

²⁷⁵ *Laws of Iowa*, 1909, p. 157.

²⁷⁶ *Laws of Iowa*, 1913, p. 243.

²⁷⁷ *Laws of Iowa*, 1907, p. 146.

²⁷⁸ *Laws of Iowa*, 1909, pp. 158, 159.

²⁷⁹ *Laws of Iowa*, 1913, p. 21.

²⁸⁰ *Laws of Iowa*, 1900, p. 70.

²⁸¹ *Laws of Iowa*, 1902, p. 121.

²⁸² *Laws of Iowa*, 1904, pp. 106, 107.

²⁸³ *Laws of Iowa*, 1904, p. 16.

²⁸⁴ *Laws of Iowa*, 1911, p. 20.

²⁸⁵ *Laws of Iowa*, 1909, p. 30.

²⁸⁶ *Laws of Iowa*, 1907, p. 14.

²⁸⁷ *Laws of Iowa*, 1911, p. 19. In 1913 the number of interments was reduced to thirty.—*Laws of Iowa*, 1913, p. 39.

²⁸⁸ *Laws of Iowa*, 1902, p. 34.

²⁸⁹ *Laws of Iowa*, 1911, p. 44.

²⁹⁰ *Laws of Iowa*, 1913, p. 105.

²⁹¹ *Laws of Iowa*, 1898, p. 46.

²⁹² *Laws of Iowa*, 1906, p. 92.

²⁹³ The growth of the Iowa Soldiers' Orphans' Home, as measured by the appropriations it has received, has kept pace with that of the other State charitable institutions. Since 1897 over \$202,000 has gone into such improvements as a chapel, barns, a power plant, cot-

tages, an ice-house, a laundry, kitchen, boys' industrial building, gymnasium equipment, and sewerage and hospital facilities. The last General Assembly (1913) passed a resolution favoring the building of a \$25,000 hospital and a \$14,000 schoolhouse. The initial appropriations for these buildings have been ordered. Extensions in land have been made from time to time at a cost of \$31,000. — *Laws of Iowa*, 1900-1913.

As the institution has grown and developed the duties of the superintendent have become more arduous, and his salary has been increased from \$1200 to \$1500 and finally to \$1800. — *Laws of Iowa*, 1898, p. 44; *Laws of Iowa*, 1900, p. 98; *Laws of Iowa*, 1913, p. 256. The *Code of 1897* left the salary of the superintendent to be fixed by the board of trustees, and he had been receiving \$100 a month previously.

²⁹⁴ *Laws of Iowa*, 1904, pp. 108, 109.

²⁹⁵ *Laws of Iowa*, 1913, p. 253.

²⁹⁶ *Laws of Iowa*, 1906, pp. 92, 93.

²⁹⁷ *Laws of Iowa*, 1911, pp. 150, 151.

²⁹⁸ *Laws of Iowa*, 1902, pp. 101, 102. In 1913 twenty-seven homes for friendless children were operating in Iowa, placing in family homes five hundred and eighty-four children. — *Bulletin of Iowa State Institutions*, Vol. XVI, No. 2 (April, 1914), p. 178.

²⁹⁹ To meet the expense of inspection, part of an annual appropriation of \$2000, primarily for the purpose of inspecting private and county insane asylums, is used, supplanting the appropriation of \$1000 made in 1902 especially for the inspection of homes for friendless children. — *Laws of Iowa*, 1906, p. 97.

³⁰⁰ *Laws of Iowa*, 1909, p. 176.

CHAPTER XI

³⁰¹ *Laws of Iowa*, 1909, p. 172.

³⁰² *Laws of Iowa*, 1911, pp. 157, 158.

³⁰³ *Laws of Iowa*, 1909, p. 167.

³⁰⁴ *Laws of Iowa*, 1898, p. 44.

³⁰⁵ *Laws of Iowa*, 1913, p. 256.

³⁰⁶ *Laws of Iowa*, 1898, p. 48.

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³⁰⁷ *Laws of Iowa*, 1902, pp. 74, 75.

³⁰⁸ *Laws of Iowa*, 1911, p. 156.

³⁰⁹ *Laws of Iowa*, 1913, pp. 336, 337. Since 1897 a hospital, a gymnasium, and a cottage for the superintendent have been built, while in 1913, \$65,000 was appropriated for the purpose of remodeling the main building. — *Laws of Iowa*, 1904, p. 142; *Laws of Iowa*, 1909, p. 222; *Laws of Iowa*, 1911, p. 218; *Laws of Iowa*, 1913, p. 340.

³¹⁰ *Laws of Iowa*, 1906, p. 95.

³¹¹ *Laws of Iowa*, 1909, p. 79.

³¹² *Laws of Iowa*, 1898, pp. 44, 64.

³¹³ *Laws of Iowa*, 1900, pp. 79, 80.

³¹⁴ *Laws of Iowa*, 1898, p. 48.

³¹⁵ *Laws of Iowa*, 1902, p. 75.

³¹⁶ *Laws of Iowa*, 1906, p. 96.

³¹⁷ *Laws of Iowa*, 1909, p. 173. On the afternoon of May 8, 1902, the greater part of the plant was destroyed by fire and \$250,000 was appropriated by the Thirtieth General Assembly for rebuilding and equipment. In 1906, \$50,000 more was set aside for a new boiler house, a laundry building, and a machine shop. For purchasing land \$7,673.75 was used in 1909. — *Laws of Iowa*, 1904, p. 144; *Laws of Iowa*, 1906, p. 134; *Laws of Iowa*, 1909, p. 225; *Report of the Board of Control*, p. 59, in the *Iowa Documents*, 1904, Vol. VIII; *Report of the Board of Control*, p. 14, in the *Iowa Documents*, 1911, Vol. II.

³¹⁸ *Laws of Iowa*, 1900, p. 172.

³¹⁹ *Laws of Iowa*, 1909, p. 79.

³²⁰ *Laws of Iowa*, 1913, p. 255.

³²¹ *The American Year Book*, 1910, pp. 473, 474. The "Jukes", found in New York, and the "Tribe of Iahmael" which wintered at Indianapolis were groups of related people who through inter-marriage and marriage with inferior non-related stock produced an exceptionally large proportion of paupers, criminals, and prostitutes. Practically all were inherently weak in some respect, disease was general, and the children often died young. — *National Conference of Charities and Correction*, 1884, pp. 254, 255; *National Conference of Charities and Correction*, 1888, pp. 79, 154-159.

³²² *Laws of Iowa*, 1898, p. 47. Every General Assembly since 1897 has appropriated large sums for the improvement and extension of the Institution for Feeble-minded Children. A hospital, an ice manufacturing plant, two double cottages for boys, a boys' custodial building, a cottage for girls, a laundry, and barns have been built. Considerable money has also been spent in purchasing more land, in obtaining a satisfactory water supply, and for heating equipment. Plans were approved by the Thirty-fifth General Assembly for new additions costing \$177,000, and \$133,000 of that amount was appropriated, besides \$24,000 for other improvements.

³²³ *Laws of Iowa*, 1902, p. 73.

³²⁴ *Laws of Iowa*, 1909, p. 171.

³²⁵ *Laws of Iowa*, 1898, p. 36.

³²⁶ *Laws of Iowa*, 1902, p. 99.

³²⁷ *Laws of Iowa*, 1900, pp. 99-102.

³²⁸ *Laws of Iowa*, 1906, p. 97.

³²⁹ *Laws of Iowa*, 1909, p. 176.

³³⁰ *Laws of Iowa*, 1913, pp. 256, 257.

³³¹ *Laws of Iowa*, 1898, pp. 65, 67, 69.

³³² *Laws of Iowa*, 1902, p. 58.

³³³ During the first part of the period the Cherokee Hospital for the Insane was in the process of construction and the sums of \$100,000, \$360,000, and \$100,000 were appropriated by the Twenty-seventh, Twenty-eighth, and Twenty-ninth General Assemblies, respectively, for the general building fund. The special commission in charge of the work of construction was superseded by the Board of Control in 1898. In 1904 the Thirtieth General Assembly appropriated \$30,000 for the purpose of obtaining a water supply and \$65,000 for the construction of a cottage for patients. To build and equip an infirmary, \$125,000 was appropriated in 1907, and in 1911 the sum of \$50,000 was set aside to erect a pavilion for tubercular patients.

At Clarinda \$15,000 has been appropriated for an ice manufacturing plant (1902), \$60,000 for a cottage for patients (1904), \$15,000 for heating apparatus (1906), \$75,000 for a cottage for women (1907), \$20,000 for a cottage for men (1911), and \$15,000 for additional water supply (1913).

Besides improving the water system (1904) and the heating apparatus (1906) in the hospital at Independence, a \$125,000 infirmary (1907) and a \$57,500 home for attendants (1911, 1913) have been constructed.

The hospital at Mount Pleasant has been improved by the erection of an electric light plant at a cost of \$13,000 (1900), new machine shops costing \$16,000 (1900), a sewage disposal plant at an expenditure of \$10,000 (1902), a laundry building for which \$15,000 was appropriated (1902), a women's infirmary at an outlay of \$83,000 (1907, 1909, 1913), and an ice plant costing \$12,000 (1909).

In addition to these improvements, \$33,600 has been used for the purchase of land at Cherokee (1902, 1907, 1909), \$30,000 at Clarinda (1902), \$53,491.85 at Independence (1902, 1904, 1909, 1911), and \$33,651.46 at Mount Pleasant (1902, 1904, 1906).

³³⁴ *Laws of Iowa*, 1902, p. 58.

³³⁵ *Laws of Iowa*, 1898, pp. 68, 69.

³³⁶ *Laws of Iowa*, 1898, p. 69. It is to be observed that this act applied only in cases where the local authorities had deemed commitment advisable and it in no way abrogated the clause in the *Code of 1897* giving the commissioners of insanity the power to determine in the first instance the residence of a person and to authorize the sheriff to remove him if it were found to be outside of the State. — *Code of 1897*, Sec. 2283.

³³⁷ *Laws of Iowa*, 1906, pp 64, 65.

³³⁸ If the commissioners of insanity of one county should find that an insane person had, or probably had, legal settlement in another county, they were obliged to notify the auditor of that county, who would then make inquiry and advise the superintendent of the hospital and the commissioners filing the information of his decision. — *Code of 1897*, Sec. 2270.

³³⁹ *Laws of Iowa*, 1907, p. 122.

³⁴⁰ *Laws of Iowa*, 1904, p. 85. Whenever it is necessary to make any transfers under the provisions of this act the same process is followed as in the case of locating non-resident insane patients.

³⁴¹ *Laws of Iowa*, 1913, p. 205.

³⁴² *Laws of Iowa*, 1898, p. 36. This act, approved twelve days after the one creating the State Board of Control, vested the power of fix-

ing allowances in the several boards of trustees, and inasmuch as both laws went into effect simultaneously it would appear that the inconsistency was simply an oversight. The error was not rectified until four years later in the *Laws of Iowa*, 1902, p. 113.

³⁴³ *Laws of Iowa*, 1894, p. 83.

³⁴⁴ *Laws of Iowa*, 1900, pp. 97, 98; *Report of the Board of Control*, p. 79, in the *Iowa Documents*, 1904, Vol. VIII.

³⁴⁵ *Laws of Iowa*, 1902, p. 113.

³⁴⁶ *Laws of Iowa*, 1911, p. 96.

³⁴⁷ *Laws of Iowa*, 1911, p. 97.

³⁴⁸ *Laws of Iowa*, 1906, p. 66.

³⁴⁹ *Laws of Iowa*, 1904, pp. 85, 86.

³⁵⁰ *Laws of Iowa*, 1906, pp. 65, 66. The laws which establish penalties for aiding inmates to escape from hospitals for the insane are considered in connection with the discussion of the penitentiaries.

³⁵¹ *Laws of Iowa*, 1902, pp. 58, 59.

³⁵² Superior courts were given concurrent jurisdiction in 1909. — *Laws of Iowa*, 1909, p. 18.

³⁵³ *Laws of Iowa*, 1904, pp. 86-90. With the opening of the Hospital for Inebriates at Knoxville on January 18, 1906, the Board of Control ordered all female inebriates to be committed to the department for inebriates at the Mount Pleasant State Hospital, to be known as the Hospital for Female Inebriates at Mount Pleasant, and closed the departments in the other State hospitals. — *Report of the Board of Control*, p. 2, in the *Iowa Documents*, 1907, Vol. II.

³⁵⁴ *Code of 1897*, Secs. 3219, 3222-3228.

³⁵⁵ *Laws of Iowa*, 1906, p. 67.

³⁵⁶ *Laws of Iowa*, 1907, p. 123.

³⁵⁷ *Laws of Iowa*, 1906, pp. 66-68, 136.

³⁵⁸ *Laws of Iowa*, 1909, p. 132.

³⁵⁹ The act of 1898 creating the State Board of Control permits a contingent fund of \$250 to rest in the hands of the managing officer of any institution under its jurisdiction. — *Laws of Iowa*, 1898, p. 73.

³⁶⁰ *Laws of Iowa*, 1911, pp. 97, 98.

³⁶¹ *Laws of Iowa*, 1913, pp. 207, 208.

³⁶² Ordinarily the expense of parole and return of patients is borne by the State.

³⁶³ *Laws of Iowa*, 1913, pp. 206, 207, 335. To purchase land for the hospital at Knoxville, \$3,308.75 was appropriated in 1907, and \$2,250 in 1911.

³⁶⁴ *Americana Encyclopedia*, Vol. VI, Epilepsy and Epileptic Colonies. Perhaps the most noted example of the colony system for the care of epileptics is the Bielefeld institution in Germany founded by Friederich von Bodelschwingh. The first action taken in Iowa was in 1896 when a bill having for its object the establishment of a colony for epileptics was favorably acted upon in the House but failed to pass the Senate. — *Proceedings of the Iowa Conference of Charities and Correction*, 1898 and 1899, p. 69; *House Journal*, 1896, p. 1078.

³⁶⁵ *Laws of Iowa*, 1913, p. 257.

³⁶⁶ *Laws of Iowa*, 1913, p. 21; *The Register and Leader* (Des Moines), Vol. LXV, No. 248, March 7, 1914.

³⁶⁷ Laughlin's *The Legal, Legislative and Administrative Aspects of Sterilization* (Bulletin No. 10B, Eugenics Record Office, New York), pp. 13, 44, 54, 76-97. Sterilization laws were passed in Indiana (1907), Connecticut, California, Washington (1909), Nevada, New Jersey, Iowa (1911), New York (1912), North Dakota, Michigan, Kansas, Oregon, and Wisconsin (1913). The Oregon statute, however, was revoked by referendum on November 4, 1913. Similar bills have been vetoed by the Governor in Pennsylvania, Oregon, Vermont, and Nebraska. In Illinois, Minnesota, New Hampshire, Ohio, and Virginia bills have been introduced but thus far have failed of enactment.

³⁶⁸ *Laws of Iowa*, 1911, pp. 144, 145.

³⁶⁹ *Laws of Iowa*, 1913, pp. 209, 210. A summary of the decision of the court may be found in *The Register and Leader* (Des Moines), Vol. LXV, No. 359, June 25, 1914.

CHAPTER XII

³⁷⁰ *Laws of Iowa*, 1909, pp. 5, 6.

³⁷¹ *Laws of Iowa*, 1913, pp. 34, 35.

³⁷² *Laws of Iowa*, 1909, p. 194.

³⁷³ *Laws of Iowa*, 1909, p. 207.

³⁷⁴ *Laws of Iowa*, 1898, pp. 19, 20.

³⁷⁵ *Laws of Iowa*, 1907, p. 23. The law now requires that one or more police matrons be appointed in Davenport, Des Moines, Dubuque, and Sioux City, where the population exceeds 35,000, and in Glenwood, Muscatine, and Wapello where special charters are in operation. Their appointment is optional in Cedar Rapids, Clinton, Council Bluffs, and Waterloo, where the population is over 25,000.

³⁷⁶ *Laws of Iowa*, 1911, pp. 200, 201.

³⁷⁷ *Laws of Iowa*, 1898, pp. 64, 68.

³⁷⁸ *Laws of Iowa*, 1900, pp. 77, 78. On account of inadequate facilities, insufficient financial support, and faulty provisions in the law itself, the Iowa Industrial Reformatory for Females has never been opened.

³⁷⁹ *Laws of Iowa*, 1904, p. 126.

³⁸⁰ *Laws of Iowa*, 1898, p. 62.

³⁸¹ *Laws of Iowa*, 1907, p. 192.

³⁸² *Laws of Iowa*, 1907, pp. 194-197. Up to 1907 there were reformatories for men in New York, Massachusetts, Kansas, Minnesota, Pennsylvania, Illinois, Ohio, Indiana, Wisconsin, Colorado, Michigan, and New Jersey; and for women in Massachusetts, Indiana, and New York. During the next seven years Connecticut, Iowa, Kentucky, Oklahoma, and Washington established reformatories for male convicts, while New Jersey and Michigan provided institutions for the reform of female offenders. — *Proceedings of the Annual Congress of the National Prison Association*, 1907, pp. 303-305; *Proceedings of the Annual Congress of the American Prison Association*, 1913, pp. 445-450.

³⁸³ *Laws of Iowa*, 1911, p. 205.

³⁸⁴ *Laws of Iowa*, 1898, p. 62.

³⁸⁵ *Laws of Iowa*, 1900, p. 95.

³⁸⁶ *Laws of Iowa*, 1902, p. 112.

³⁸⁷ *Laws of Iowa*, 1904, pp. 127, 128.

³⁸⁸ *Laws of Iowa*, 1906, p. 122.

³⁸⁹ *Laws of Iowa*, 1907, p. 198.

³⁹⁰ *Laws of Iowa*, 1900, p. 79. This appropriation was of course never utilized.

³⁹¹ *Report of the Board of Control*, pp. 28, 29, in the *Iowa Documents*, 1913, Vol. II.

³⁹² *Laws of Iowa*, 1913, p. 322.

³⁹³ The commitments were directed by the Executive Council (*Code of 1897*, Sec. 5676) and later when the State was divided into two districts under the régime of the Board of Control, each penitentiary received criminals from its own territory, although the Board possessed the power of transferring any prisoners at any time. — *Laws of Iowa*, 1898, p. 69. The Executive Council (the Board of Control is now vested with that power) might also designate classes as well as individuals who should be confined in one penitentiary or the other. — *O'Brien vs. Barr*, 83 Iowa 51.

³⁹⁴ *Laws of Iowa*, 1907, pp. 193, 194, 197.

³⁹⁵ The custodial farm in New York is for women.

³⁹⁶ *Laws of Iowa*, 1913, pp. 21, 22; *Proceedings of the Annual Congress of the American Prison Association*, 1913, pp. 445-450; *The Register and Leader* (Des Moines), Vol. LXVI, No. 135, November 13, 1914.

³⁹⁷ *Laws of Iowa*, 1900, p. 78. It is to be remembered that these provisions have never been in force.

³⁹⁸ *Laws of Iowa*, 1902, p. 111.

³⁹⁹ *Laws of Iowa*, 1904, p. 211.

⁴⁰⁰ Bliss's *The New Encyclopedia of Social Reform*, pp. 885, 886; *Cyclopedia of American Government*, Vol. II, p. 619. In 1910 Colorado, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, and Washington had laws providing for indeterminate sentences and a parole system in connection with their reformatories; and in Indiana, Iowa, Massachusetts, Michigan, New Hampshire, and New Mexico the indeterminate sentence was in operation in the State prisons. The courts in Arizona, Connecticut, Illinois, Kansas, Michigan, Minnesota, New

York, North Dakota, Oregon, Pennsylvania, Vermont, West Virginia, and Wyoming are privileged to prescribe either definite or indeterminate sentences of imprisonment in the State prisons. Those confined under an indeterminate sentence are usually eligible to parole. — *Proceedings of the Annual Congress of the American Prison Association*, 1910, p. 275.

⁴⁰¹ *Laws of Iowa*, 1907, p. 194.

⁴⁰² *Laws of Iowa*, 1911, p. 199.

⁴⁰³ *Laws of Iowa*, 1913, p. 320.

⁴⁰⁴ *Code of 1897*, Secs. 5702, 5707, 5708.

⁴⁰⁵ *Laws of Iowa*, 1898, pp. 74, 75.

⁴⁰⁶ *Report of the Board of Control*, p. 186, in the *Iowa Documents*, 1900, Vol. VI. It was for sixteen years and expires December 31, 1914. — *Report of the Board of Control*, p. 31, in the *Iowa Documents*, 1913, Vol. II.

⁴⁰⁷ Downey's *History of Labor Legislation in Iowa*, p. 22.

⁴⁰⁸ *Laws of Iowa*, 1900, p. 96. Other contracts have been and are still in force whereby prisoners in the penitentiary at Fort Madison are employed. The manufacture of farming tools and chairs have been the two most enduring industries.

⁴⁰⁹ *Laws of Iowa*, 1902, p. 112.

⁴¹⁰ *State vs. King*, 114 Iowa 413.

⁴¹¹ *Laws of Iowa*, 1907, p. 194. This law did not, however, affect the existing contract with the Anamosa Cooperage Company, and in 1909 the legislature authorized the "employment of not to exceed fifty inmates of the reformatory at Anamosa in the making of butter tubs." — *Laws of Iowa*, 1909, p. 175.

⁴¹² *Laws of Iowa*, 1907, p. 197.

⁴¹³ *Laws of Iowa*, 1913, pp. 132, 133.

The statement is made that Iowa is the only State in the Union in which convicts are allowed a part of their earnings. — *Proposed Legislation*, p. 12, an address by Attorney General Cosson before the Des Moines Chamber of Commerce on December 24, 1914.

⁴¹⁴ *Laws of Iowa*, 1913, p. 324.

- ⁴¹⁵ *Laws of Iowa*, 1900, p. 96.
- ⁴¹⁶ *Laws of Iowa*, 1904, p. 127.
- ⁴¹⁷ *Laws of Iowa*, 1913, p. 323.
- ⁴¹⁸ *Laws of Iowa*, 1900, p. 78.
- ⁴¹⁹ *Laws of Iowa*, 1898, p. 69.
- ⁴²⁰ *Report of the Board of Control*, p. 187, in the *Iowa Documents*, 1900, Vol. VI.
- ⁴²¹ *Laws of Iowa*, 1902, pp. 107, 112.
- ⁴²² *Laws of Iowa*, 1900, p. 92.
- ⁴²³ *Laws of Iowa*, 1913, p. 311.
- ⁴²⁴ *Laws of Iowa*, 1904, p. 122.
- ⁴²⁵ *Laws of Iowa*, 1913, pp. 311, 312. The law of 1904 applied only to the penitentiary, the reformatory, and industrial schools while that of 1913 included workhouses and the hospitals of the State.
- ⁴²⁶ *Constitution of Iowa*, Art. IV, Sec. 16.
- ⁴²⁷ *Laws of Iowa*, 1900, p. 78. The *Code of 1897* (Sec. 2711) had provided for the parole of reformed children in the Industrial School.
- ⁴²⁸ In other States, as in Iowa, parole laws have been made applicable to penitentiaries and while the results have been generally favorable it is obvious that where the release is based upon negative conduct it is more haphazard than when used in connection with the reformatory system, where it comes as a result of positive improvement.
- ⁴²⁹ *Laws of Iowa*, 1907, pp. 195-197.
- ⁴³⁰ *Laws of Iowa*, 1909, p. 208.
- ⁴³¹ *Laws of Iowa*, 1907, p. 196.
- ⁴³² *Laws of Iowa*, 1911, p. 200.
- ⁴³³ By 1910 the States in which juvenile courts had not been established were Arkansas, Connecticut, Delaware, Florida, Maine, Mississippi, New Mexico, North Carolina, North Dakota, South Carolina, Vermont, Virginia, West Virginia, and Wyoming; and in Alabama, Maryland, and Rhode Island the institution was so limited as to be unworthy of mention. In Virginia juvenile offenders were not sub-

ject to criminal procedure in court. — *Hart's Juvenile Court Laws in the United States Summarised*, pp. 3-118.

⁴³⁴ *Laws of Iowa*, 1904, pp. 9-13.

⁴³⁵ Such rules are found in the *Code of 1897*, Secs. 5216-5239.

⁴³⁶ *Laws of Iowa*, 1909, p. 14. There are seven such courts in Iowa located in Council Bluffs, Cedar Rapids, Grinnell, Keokuk, Oelwein, Perry, and Shenandoah. — *Iowa Official Register*, 1913-1914, pp. 235, 236.

⁴³⁷ *Laws of Iowa*, 1909, p. 18.

⁴³⁸ Dubuque, Linn, Polk, Pottawattamie, Scott, and Woodbury counties have over 50,000 population. — *Iowa Official Register*, 1913-1914, pp. 710-713.

⁴³⁹ *Laws of Iowa*, 1907, p. 7.

⁴⁴⁰ *Laws of Iowa*, 1907, p. 8.

⁴⁴¹ The superior court at Cedar Rapids is the only one to which this provision is applicable.

⁴⁴² *Laws of Iowa*, 1909, p. 14.

⁴⁴³ *Laws of Iowa*, 1911, p. 6.

⁴⁴⁴ *Laws of Iowa*, 1913, p. 254.

⁴⁴⁵ *Laws of Iowa*, 1900, p. 76.

⁴⁴⁶ *Laws of Iowa*, 1900, p. 76.

⁴⁴⁷ *Code of 1897*, Sec. 2707.

⁴⁴⁸ *Laws of Iowa*, 1898, p. 47.

⁴⁴⁹ *Report of the Board of Control*, p. 109, in the *Iowa Documents*, 1900, Vol. VI.

⁴⁵⁰ *Laws of Iowa*, 1900, p. 76.

⁴⁵¹ *Laws of Iowa*, 1902, p. 74.

⁴⁵² *Laws of Iowa*, 1900, p. 76.

⁴⁵³ *Laws of Iowa*, 1906, p. 94.

⁴⁵⁴ *Laws of Iowa*, 1909, pp. 171, 172.

⁴⁵⁵ *Laws of Iowa*, 1911, pp. 153, 154.

⁴⁵⁶ *Laws of Iowa*, 1911, pp. 155, 156.

⁴⁵⁷ This power was transferred from the board of trustees to the Board of Control by the Twenty-eighth General Assembly. — *Laws of Iowa*, 1900, p. 75.

⁴⁵⁸ The laws against enticing away a child placed by law in a home or institution, considered in the discussion of contributory dependency, apply to children placed out by the Industrial School.

⁴⁵⁹ *Laws of Iowa*, 1906, pp. 93, 94.

⁴⁶⁰ *Laws of Iowa*, 1911, p. 152.

⁴⁶¹ *Laws of Iowa*, 1900, p. 76. Formerly this privilege applied only to those inmates who had been committed on account of a crime. — *Code of 1897*, Sec. 2710.

⁴⁶² The section was amended to read "the board of control of state institutions" instead of "the board of trustees" in 1900. — *Laws of Iowa*, 1900, p. 76.

⁴⁶³ *Laws of Iowa*, 1902, p. 74.

⁴⁶⁴ *Code of 1897*, Sec. 2712.

⁴⁶⁵ *Laws of Iowa*, 1913, pp. 311, 312.

⁴⁶⁶ This law is considered in connection with penitentiaries.

⁴⁶⁷ *Laws of Iowa*, 1898, p. 47.

⁴⁶⁸ *Laws of Iowa*, 1900, pp. 76, 77.

⁴⁶⁹ *Laws of Iowa*, 1902, p. 115.

⁴⁷⁰ *Laws of Iowa*, 1904, p. 128.

⁴⁷¹ *Laws of Iowa*, 1906, pp. 94, 95.

⁴⁷² *Laws of Iowa*, 1911, p. 155.

⁴⁷³ *Laws of Iowa*, 1911, p. 156.

⁴⁷⁴ *Laws of Iowa*, 1913, pp. 254, 255.

⁴⁷⁵ *Laws of Iowa*, 1898, p. 44.

⁴⁷⁶ *Laws of Iowa*, 1900, p. 77.

⁴⁷⁷ *Laws of Iowa*, 1906, p. 96.

⁴⁷⁸ *Laws of Iowa*, 1911, p. 198.

⁴⁷⁹ *Laws of Iowa*, 1913, p. 319.

CHAPTER XIII

⁴⁸⁰ *Code of 1897*, Sec. 1309.

⁴⁸¹ *Code of 1897*, Secs. 4009, 4010.

⁴⁸² *The American Year Book*, 1912, p. 422; *The American Year Book*, 1913, p. 434; *Cyclopedia of American Government*, Vol. II, pp. 666-668; James's *Some Implications of Remedial and Preventive Legislation in the United States* in *The American Journal of Sociology*, Vol. XVIII, p. 778; *The Register and Leader* (Des Moines), Vol. LXVI, No. 111, October 20, 1914.

⁴⁸³ The merit system is making some sort of retirement scheme a necessary concomitant. — *The American Year Book*, 1910, p. 178.

⁴⁸⁴ *Laws of Iowa*, 1909, pp. 47-50.

⁴⁸⁵ *Laws of Iowa*, 1909, pp. 50-53.

⁴⁸⁶ *Laws of Iowa*, 1911, p. 36.

⁴⁸⁷ *Laws of Iowa*, 1913, p. 12.

⁴⁸⁸ *Laws of Iowa*, 1909, p. 12.

⁴⁸⁹ *Laws of Iowa*, 1909, p. 48.

⁴⁹⁰ *Laws of Iowa*, 1911, p. 36.

⁴⁹¹ Mothers' pensions began as an experiment by private charity organizations in San Francisco in 1908. Illinois appropriated the scheme as an addition to her system of public relief in 1911 and Colorado followed in 1912. In 1913 California, Idaho, Iowa, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Washington, and Wisconsin passed similar laws. — *The American Year Book*, 1913, pp. 407, 408.

⁴⁹² *Laws of Iowa*, 1913, pp. 33, 34.

⁴⁹³ *Laws of Iowa*, 1913, p. 362.

CHAPTER XIV

⁴⁹⁴ *Laws of Iowa*, 1904, p. 92.

⁴⁹⁵ *Laws of Iowa*, 1907, p. 128.

⁴⁹⁶ *Laws of Iowa*, 1904, pp. 92, 93.

- ⁴⁹⁷ *Laws of Iowa*, 1907, p. 128.
- ⁴⁹⁸ *Laws of Iowa*, 1913, p. 217.
- ⁴⁹⁹ *Laws of Iowa*, 1904, p. 92.
- ⁵⁰⁰ *Laws of Iowa*, 1909, pp. 140, 141.
- ⁵⁰¹ *Laws of Iowa*, 1913, p. 217.
- ⁵⁰² *Laws of Iowa*, 1904, p. 93.
- ⁵⁰³ *Laws of Iowa*, 1909, p. 141.
- ⁵⁰⁴ *Laws of Iowa*, 1913, p. 217.
- ⁵⁰⁵ *Laws of Iowa*, 1902, p. 61.
- ⁵⁰⁶ *Laws of Iowa*, 1904, pp. 209, 210.
- ⁵⁰⁷ *Laws of Iowa*, 1913, p. 217.
- ⁵⁰⁸ *Laws of Iowa*, 1913, p. 216.
- ⁵⁰⁹ *Laws of Iowa*, 1902, p. 61.
- ⁵¹⁰ *Laws of Iowa*, 1902, p. 62.
- ⁵¹¹ *Laws of Iowa*, 1913, p. 216.
- ⁵¹² *Laws of Iowa*, 1902, p. 108.
- ⁵¹³ *Laws of Iowa*, 1904, p. 124.
- ⁵¹⁴ *Laws of Iowa*, 1906, p. 72.
- ⁵¹⁵ *Laws of Iowa*, 1907, p. 129.
- ⁵¹⁶ *Laws of Iowa*, 1907, p. 26.
- ⁵¹⁷ March 27, 1907.
- ⁵¹⁸ *Laws of Iowa*, 1907, pp. 128, 129.
- ⁵¹⁹ *Code of 1897*, Sec. 2490.
- ⁵²⁰ *Laws of Iowa*, 1900, p. 61.
- ⁵²¹ *Laws of Iowa*, 1904, p. 117.
- ⁵²² *Laws of Iowa*, 1913, p. 267. The law was declared constitutional by the Supreme Court of Iowa, May 12, 1914. — *The Register and Leader*, (Des Moines), Vol. LXV, No. 315, May 13, 1914.
- ⁵²³ *Cyclopedia of American Government*, Vol. I, pp. 66, 67.

⁵²⁴ Tribunals of voluntary arbitration in each county were authorized in 1886, but being found of no practical value, the statute providing for them was omitted by the commission which framed the *Code of 1897*. — Downey's *History of Labor Legislation in Iowa*, pp. 191, 192.

⁵²⁵ *Laws of Iowa*, 1913, pp. 303-305. Thus far two disputes have been investigated, the Oskaloosa Transit Company *vs.* The Amalgamated Association of Street and Electric Railway Employees, and the Fort Dodge Telephone Company *vs.* the Electrical Workers Union, and in both instances the decision has been in favor of the workmen but the companies have refused to abide by the result. — *Report of the Bureau of Labor Statistics*, 1914, pp. 195-206; a letter from A. L. Uriek, Commissioner of Labor, to the writer, dated November 10, 1914.

⁵²⁶ If the employees are not organized it is necessary that a majority of those affected, but not more than twenty, should sign the application for the appointment of a board of arbitration.

⁵²⁷ Downey's *History of Labor Legislation in Iowa*, p. 105.

⁵²⁸ *Laws of Iowa*, 1904, p. 92.

⁵²⁹ *Laws of Iowa*, 1909, p. 141.

⁵³⁰ *Laws of Iowa*, 1913, p. 217.

⁵³¹ *Laws of Iowa*, 1902, p. 62.

⁵³² *Laws of Iowa*, 1913, p. 217.

⁵³³ *Laws of Iowa*, 1902, p. 108.

⁵³⁴ *Laws of Iowa*, 1911, p. 188.

⁵³⁵ *Laws of Iowa*, 1902, pp. 108, 109.

⁵³⁶ Another act mentioned in connection with the inspection of factories gave the Commissioner power to notify those in charge of a factory of neglect in respect to fire escapes, but he was powerless to enforce compliance. — *Laws of Iowa*, 1902, p. 62.

⁵³⁷ *Laws of Iowa*, 1904, p. 124.

⁵³⁸ *Laws of Iowa*, 1911, pp. 140-144.

⁵³⁹ *Laws of Iowa*, 1900, p. 62.

⁵⁴⁰ *Laws of Iowa*, 1902, p. 62.

- ⁵⁴¹ *Laws of Iowa*, 1904, p. 93.
- ⁵⁴² *Laws of Iowa*, 1911, p. 117.
- ⁵⁴³ *Laws of Iowa*, 1900, p. 61. Formerly the limit for traveling expenses was \$500.—*Code of 1897*, Sec. 2483.
- ⁵⁴⁴ *Laws of Iowa*, 1907, p. 129.
- ⁵⁴⁵ *Laws of Iowa*, 1911, p. 120.
- ⁵⁴⁶ *Laws of Iowa*, 1911, p. 105.
- ⁵⁴⁷ *Laws of Iowa*, 1913, p. 218.
- ⁵⁴⁸ *Laws of Iowa*, 1911, p. 106.
- ⁵⁴⁹ *Laws of Iowa*, 1902, p. 63.
- ⁵⁵⁰ *Laws of Iowa*, 1902, p. 63.
- ⁵⁵¹ *Laws of Iowa*, 1906, p. 73.
- ⁵⁵² *Laws of Iowa*, 1913, p. 220.
- ⁵⁵³ *Laws of Iowa*, 1911, p. 116.
- ⁵⁵⁴ *Laws of Iowa*, 1913, p. 220.
- ⁵⁵⁵ *Laws of Iowa*, 1913, p. 169.
- ⁵⁵⁶ *Laws of Iowa*, 1911, pp. 106-108.
- ⁵⁵⁷ *Laws of Iowa*, 1913, pp. 220, 221.
- ⁵⁵⁸ *Laws of Iowa*, 1911, pp. 108-111.
- ⁵⁵⁹ *Laws of Iowa*, 1913, pp. 218, 219.
- ⁵⁶⁰ *Laws of Iowa*, 1911, pp. 111, 113-116.
- ⁵⁶¹ *Laws of Iowa*, 1913, p. 219.
- ⁵⁶² *Laws of Iowa*, 1911, pp. 113, 114.
- ⁵⁶³ *Laws of Iowa*, 1913, pp. 219, 220.
- ⁵⁶⁴ *Laws of Iowa*, 1911, p. 111.
- ⁵⁶⁵ *Laws of Iowa*, 1911, pp. 110, 111, 115, 116.
- ⁵⁶⁶ Downey's *History of Labor Legislation in Iowa*, p. 50.
- ⁵⁶⁷ *Laws of Iowa*, 1902, p. 63.
- ⁵⁶⁸ *Laws of Iowa*, 1911, p. 118.

- ⁵⁶⁹ *Laws of Iowa*, 1911, p. 115.
- ⁵⁷⁰ *Laws of Iowa*, 1907, pp. 129, 130.
- ⁵⁷¹ *Laws of Iowa*, 1900, pp. 61, 62.
- ⁵⁷² *Laws of Iowa*, 1909, p. 141.
- ⁵⁷³ *Laws of Iowa*, 1911, p. 118.
- ⁵⁷⁴ *Laws of Iowa*, 1911, p. 117.
- ⁵⁷⁵ *Laws of Iowa*, 1902, p. 63.
- ⁵⁷⁶ *Laws of Iowa*, 1911, pp. 114, 118.
- ⁵⁷⁷ *Laws of Iowa*, 1911, pp. 116, 117.
- ⁵⁷⁸ *Laws of Iowa*, 1911, pp. 117, 118.
- ⁵⁷⁹ *Laws of Iowa*, 1911, p. 116.
- ⁵⁸⁰ *Laws of Iowa*, 1911, p. 119.
- ⁵⁸¹ *Laws of Iowa*, 1898, p. 33. The time limit given to companies within which to equip their cars with automatic couplers had never applied to power brakes.
- ⁵⁸² *Laws of Iowa*, 1907, p. 107.
- ⁵⁸³ *Laws of Iowa*, 1907, pp. 112, 113.
- ⁵⁸⁴ *Laws of Iowa*, 1909, pp. 118, 119.
- ⁵⁸⁵ *Laws of Iowa*, 1911, pp. 92, 93.
- ⁵⁸⁶ *Laws of Iowa*, 1913, p. 190.
- ⁵⁸⁷ Some powers and duties of the Board, such as the inspection of equipment and bridges and the promotion of "the security, convenience, and accommodation of the public" have a bearing upon the safety of the public and employees and to that extent may be regarded as social rather than economic.
- ⁵⁸⁸ *Laws of Iowa*, 1907, p. 113.
- ⁵⁸⁹ Downey's *History of Labor Legislation in Iowa*, p. 89.
- ⁵⁹⁰ *Laws of Iowa*, 1913, p. 169.
- ⁵⁹¹ *Laws of Iowa*, 1907, p. 29.
- ⁵⁹² *Laws of Iowa*, 1909, p. 41.

⁵⁹³ *Laws of Iowa*, 1911, p. 28.

⁵⁹⁴ *Laws of Iowa*, 1900, p. 63.

⁵⁹⁵ *Laws of Iowa*, 1909, p. 143.

⁵⁹⁶ *Laws of Iowa*, 1911, p. 125.

⁵⁹⁷ *Laws of Iowa*, 1898, p. 33.

⁵⁹⁸ The *Code of 1897* had declared that persons employed on trains not equipped with driver brakes and automatic couplers did not assume the inherent risk. — *Code of 1897*, Sec. 2083.

⁵⁹⁹ *Laws of Iowa*, 1907, p. 182.

⁶⁰⁰ *Laws of Iowa*, 1909, p. 200.

⁶⁰¹ *Laws of Iowa*, 1909, pp. 117, 118.

⁶⁰² *Laws of Iowa*, 1906, p. 47.

⁶⁰³ *Laws of Iowa*, 1913, pp. 154-172.

⁶⁰⁴ *Laws of Iowa*, 1911, pp. 230, 231.

In general there are two methods of indemnifying workmen for accidents whereby the burden is shifted from the individual sustaining injury to the industry causing it and ultimately to society: (1) compensation, by which each employer becomes individually responsible for the injuries of his employees (which is the English system), and (2) insurance, by which employers in each industrial group become collectively responsible for injuries in that employment (which is the German system). In the United States the compensation plan has met with much the greater favor among the twenty-three Commonwealths which have since 1909 abandoned the former liability laws. To avoid unconstitutionality most of the legislation makes the adoption of the new plans elective.

Maryland (1912), Washington (1911), Nevada (1913), Ohio (1913), West Virginia (1913), and Oregon (1913) have accident insurance laws; while New York (1913), Kansas (1911), New Jersey (1911), California (1913), New Hampshire (1911), Wisconsin (1913), Illinois (1911), Massachusetts (1911), Michigan (1912), Rhode Island (1912), Arizona (1912), Texas (1913), Iowa (1913), Nebraska (1913), Minnesota (1913), and Connecticut (1913) entertain the compensation plan. In Montana a compulsory insurance law applying to coal miners was declared unconstitutional. — *The American Year Book*, 1912, pp. 236, 420; *The American Year Book*, 1913, pp.

378, 379, 431-433; Downey's *Work Accident Indemnity in Iowa* in the *Iowa Applied History Series*, Vol. I, pp. 440, 441, 447, 449.

⁶⁰⁵ A summary of the opinion of the court may be found in *The Register and Leader* (Des Moines), Vol. LXV, No. 357, June 23, 1914.

⁶⁰⁶ *Laws of Iowa*, 1898, p. 38.

⁶⁰⁷ *Laws of Iowa*, 1911, pp. 112, 113.

⁶⁰⁸ *Laws of Iowa*, 1911, p. 115.

⁶⁰⁹ *Laws of Iowa*, 1913, p. 219.

⁶¹⁰ *Laws of Iowa*, 1898, pp. 38, 39.

⁶¹¹ *Laws of Iowa*, 1911, pp. 118, 119.

⁶¹² *Laws of Iowa*, 1902, pp. 107, 108.

⁶¹³ *Laws of Iowa*, 1911, p. 187.

⁶¹⁴ *Laws of Iowa*, 1902, p. 108.

⁶¹⁵ *Laws of Iowa*, 1913, p. 314.

⁶¹⁶ *Laws of Iowa*, 1902, p. 108.

⁶¹⁷ Downey's *History of Labor Legislation in Iowa*, p. 117.

⁶¹⁸ *Laws of Iowa*, 1906, pp. 71-73.

⁶¹⁹ *Laws of Iowa*, 1909, p. 141.

⁶²⁰ *Laws of Iowa*, 1902, pp. 78-80.

⁶²¹ *Laws of Iowa*, 1904, p. 113.

⁶²² *Laws of Iowa*, 1907, p. 152.

⁶²³ *Laws of Iowa*, 1909, pp. 180, 181.

⁶²⁴ *Laws of Iowa*, 1913, p. 272.

⁶²⁵ *Laws of Iowa*, 1913, p. 271.

⁶²⁶ *Laws of Iowa*, 1913, pp. 273, 274.

CHAPTER XV

⁶²⁷ *Laws of Iowa*, 1902, p. 67.

⁶²⁸ *Laws of Iowa*, 1904, p. 102.

⁶²⁹ *Laws of Iowa*, 1906, p. 79.

⁶³⁰ *Laws of Iowa*, 1909, pp. 152, 153.

⁶³¹ *Laws of Iowa*, 1900, pp. 66, 67.

⁶³² *Laws of Iowa*, 1902, p. 68.

⁶³³ *Laws of Iowa*, 1902, pp. 154, 155.

⁶³⁴ *Laws of Iowa*, 1904, p. 101.

⁶³⁵ *Laws of Iowa*, 1909, p. 153.

⁶³⁶ *Laws of Iowa*, 1911, p. 135.

⁶³⁷ The jurisdiction of the State Board of Health now includes the Embalmers' Department (*Laws of Iowa*, 1907, p. 140), Nurses' Department (*Laws of Iowa*, 1907, p. 137), Antitoxin Department (*Laws of Iowa*, 1911, p. 136), Bacteriological Department (*Laws of Iowa*, 1904, p. 105), Medical Examiners' Department (*Code of 1897*, Sec. 2576), Optometry Department (*Laws of Iowa*, 1909, p. 159), and Vital Statistics Department (*Laws of Iowa*, 1904, p. 103). Other tributary functions that have devolved upon the State Board of Health are the regulation of the inspection of petroleum products (*Laws of Iowa*, 1898, p. 34), the testing of gasoline lamps (*Laws of Iowa*, 1900, p. 63), the disposal of bodies for anatomical purposes (*Laws of Iowa*, 1900, p. 92), the regulation of maternity hospitals (*Laws of Iowa*, 1907, p. 135), the supervision of hotel inspection (*Laws of Iowa*, 1909, p. 163), the review of the regulations of the State Veterinary Surgeon in regard to the spread of infectious diseases among domestic animals (*Code of 1897*, Sec. 2530), and the distribution of literature pertaining to sanitation and hygiene (*Code of 1897*, Sec. 2565).

⁶³⁸ *Laws of Iowa*, 1913, pp. 232-234.

⁶³⁹ *Laws of Iowa*, 1911, p. 136.

⁶⁴⁰ *Laws of Iowa*, 1904, pp. 102, 103.

⁶⁴¹ *Laws of Iowa*, 1902, pp. 68, 69.

⁶⁴² *Laws of Iowa*, 1902, pp. 66, 67.

⁶⁴³ *Laws of Iowa*, 1906, p. 79.

⁶⁴⁴ *Laws of Iowa*, 1909, p. 152.

⁶⁴⁵ *Laws of Iowa*, 1911, p. 134.

- ⁶⁴⁶ *Laws of Iowa*, 1913, pp. 236, 237.
⁶⁴⁷ *Laws of Iowa*, 1913, pp. 208, 209.
⁶⁴⁸ *Laws of Iowa*, 1898, p. 40.
⁶⁴⁹ *Laws of Iowa*, 1907, pp. 132, 133.
⁶⁵⁰ *Laws of Iowa*, 1906, pp. 120, 121.
⁶⁵¹ *Laws of Iowa*, 1904, p. 150.
⁶⁵² *Laws of Iowa*, 1906, pp. 84-86.
⁶⁵³ *Laws of Iowa*, 1907, p. 147.
⁶⁵⁴ *Laws of Iowa*, 1913, p. 258.
⁶⁵⁵ *Laws of Iowa*, 1913, pp. 258, 259.
⁶⁵⁶ *Laws of Iowa*, 1909, pp. 27, 28.
⁶⁵⁷ *Laws of Iowa*, 1911, p. 134.
⁶⁵⁸ *Laws of Iowa*, 1913, pp. 38, 39.
⁶⁵⁹ *Cyclopedia of American Government*, Vol. III, pp. 623-625.
⁶⁶⁰ *Laws of Iowa*, 1904, pp. 103, 104.
⁶⁶¹ *Laws of Iowa*, 1906, pp. 77, 78.
⁶⁶² *Laws of Iowa*, 1907, p. 134.
⁶⁶³ *Laws of Iowa*, 1906, pp. 16-18.
⁶⁶⁴ *Laws of Iowa*, 1907, p. 28.
⁶⁶⁵ *Laws of Iowa*, 1907, pp. 135-137.
⁶⁶⁶ *Laws of Iowa*, 1913, p. 38.
⁶⁶⁷ *Laws of Iowa*, 1909, pp. 24-28.
⁶⁶⁸ *Laws of Iowa*, 1902, pp. 63, 64.
⁶⁶⁹ *Laws of Iowa*, 1900, pp. 40, 64.
⁶⁷⁰ *Laws of Iowa*, 1904, p. 97.
⁶⁷¹ *Laws of Iowa*, 1907, p. 132.
⁶⁷² *Laws of Iowa*, 1906, pp. 115-118.
⁶⁷³ *Laws of Iowa*, 1906, pp. 75, 132.
⁶⁷⁴ *Laws of Iowa*, 1907, pp. 131, 181, 188, 189. Formerly the

Board of Health and the Inspectors of Petroleum Products had jurisdiction over the purity of linseed oil. — *Laws of Iowa*, 1898, p. 34.

⁶⁷⁵ *Laws of Iowa*, 1911, pp. 123, 125.

⁶⁷⁶ *Laws of Iowa*, 1909, p. 72.

⁶⁷⁷ *Laws of Iowa*, 1911, pp. 127, 129.

⁶⁷⁸ *Laws of Iowa*, 1913, pp. 228, 229.

⁶⁷⁹ *Laws of Iowa*, 1898, p. 60.

⁶⁸⁰ *Laws of Iowa*, 1906, pp. 118, 119, 121.

⁶⁸¹ *Laws of Iowa*, 1906, pp. 116, 117.

⁶⁸² *Laws of Iowa*, 1906, pp. 116-118; *Laws of Iowa*, 1907, p. 182.

⁶⁸³ *Laws of Iowa*, 1907, pp. 178, 179.

⁶⁸⁴ *Laws of Iowa*, 1907, pp. 179-181.

⁶⁸⁵ *Laws of Iowa*, 1909, p. 201.

⁶⁸⁶ *Laws of Iowa*, 1911, p. 192.

⁶⁸⁷ *Laws of Iowa*, 1911, pp. 190, 191.

⁶⁸⁸ *Laws of Iowa*, 1913, p. 314.

⁶⁸⁹ *Laws of Iowa*, 1911, p. 191.

⁶⁹⁰ *Laws of Iowa*, 1911, pp. 128, 129.

⁶⁹¹ *Laws of Iowa*, 1913, pp. 222-224.

⁶⁹² *Laws of Iowa*, 1913, pp. 226-229.

⁶⁹³ *Laws of Iowa*, 1907, pp. 176-178.

⁶⁹⁴ *Laws of Iowa*, 1911, p. 192.

⁶⁹⁵ *Laws of Iowa*, 1911, p. 193.

⁶⁹⁶ *Laws of Iowa*, 1904, p. 28.

⁶⁹⁷ *Laws of Iowa*, 1907, p. 31.

⁶⁹⁸ *Laws of Iowa*, 1909, pp. 42, 43.

⁶⁹⁹ *Laws of Iowa*, 1913, p. 83.

⁷⁰⁰ *Laws of Iowa*, 1913, p. 21.

⁷⁰¹ *Laws of Iowa*, 1913, p. 51.

- ⁷⁰² This law is discussed in Chapter VI.
- ⁷⁰³ *Laws of Iowa*, 1909, p. 200.
- ⁷⁰⁴ *Laws of Iowa*, 1902, p. 107.
- ⁷⁰⁵ *Laws of Iowa*, 1911, p. 187.
- ⁷⁰⁶ *Laws of Iowa*, 1909, p. 162.
- ⁷⁰⁷ *Laws of Iowa*, 1909, p. 119.
- ⁷⁰⁸ *Laws of Iowa*, 1913, p. 199.
- ⁷⁰⁹ *Laws of Iowa*, 1898, p. 34.
- ⁷¹⁰ *Laws of Iowa*, 1904, p. 65. This law was rewritten by the Thirty-fifth General Assembly, but merely for the purpose of eliminating certain ambiguities. — *Laws of Iowa*, 1913, p. 179.
- ⁷¹¹ *Laws of Iowa*, 1909, pp. 196-198.
- ⁷¹² *Laws of Iowa*, 1911, p. 198.
- ⁷¹³ *Laws of Iowa*, 1911, p. 27.
- ⁷¹⁴ *Laws of Iowa*, 1913, pp. 43, 44. Under the original act it will be noted that Des Moines was the only city affected and the special provision in regard to special charter cities in the present law was obviously made for the benefit of Muscatine.
- ⁷¹⁵ *Laws of Iowa*, 1913, p. 51.

CHAPTER XVI

- ⁷¹⁶ *Laws of Iowa*, 1913, p. 54. The italics are the writer's.
- ⁷¹⁷ *Laws of Iowa*, 1913, p. 55. Formerly under Sec. 711 of the *Code of 1897* the only possible requirement was that the outer walls should be made of non-combustible material and the roof of fire-proof construction. Neither could the cost be charged to the owner.
- ⁷¹⁸ *Laws of Iowa*, 1900, pp. 93, 94.
- ⁷¹⁹ *Laws of Iowa*, 1902, pp. 108-110.
- ⁷²⁰ *Laws of Iowa*, 1904, pp. 123-125.
- ⁷²¹ *Laws of Iowa*, 1909, p. 201.
- ⁷²² *Laws of Iowa*, 1911, p. 189.
- ⁷²³ *Laws of Iowa*, 1913, p. 313.

- ⁷²⁴ *Laws of Iowa*, 1909, pp. 161-165.
- ⁷²⁵ *Laws of Iowa*, 1898, p. 20.
- ⁷²⁶ *Laws of Iowa*, 1909, pp. 35, 61.
- ⁷²⁷ *Laws of Iowa*, 1913, pp. 55, 56.
- ⁷²⁸ Cities having a population of over 60,000 is the way the law reads.
- ⁷²⁹ *Laws of Iowa*, 1902, pp. 16-19.
- ⁷³⁰ *Laws of Iowa*, 1907, pp. 24, 25.
- ⁷³¹ *Laws of Iowa*, 1911, pp. 24, 25.
- ⁷³² *Laws of Iowa*, 1907, pp. 44-46.
- ⁷³³ *Laws of Iowa*, 1911, pp. 38, 39. Formerly he had been elected by the city council. — *Laws of Iowa*, 1907, p. 43.
- ⁷³⁴ *Laws of Iowa*, 1911, pp. 140-144.
- ⁷³⁵ *Laws of Iowa*, 1913, pp. 245, 246. The italics are the writer's.
- ⁷³⁶ *Laws of Iowa*, 1907, p. 127.
- ⁷³⁷ The Thirty-third General Assembly made it a misdemeanor to place or leave glass in a road or street so as to interfere with safe travel. — *Laws of Iowa*, 1909, pp. 193, 194.
- ⁷³⁸ *Laws of Iowa*, 1900, p. 38.
- ⁷³⁹ *Laws of Iowa*, 1904, p. 44.
- ⁷⁴⁰ *Laws of Iowa*, 1909, p. 93.
- ⁷⁴¹ *Laws of Iowa*, 1904, pp. 44-46.
- ⁷⁴² *Laws of Iowa*, 1907, p. 73.
- ⁷⁴³ *Laws of Iowa*, 1909, p. 94.
- ⁷⁴⁴ *Laws of Iowa*, 1911, pp. 69-76.
- ⁷⁴⁵ *Laws of Iowa*, 1913, pp. 125-129.
- ⁷⁴⁶ *Laws of Iowa*, 1907, p. 144.
- ⁷⁴⁷ *Laws of Iowa*, 1909, pp. 155, 156.
- ⁷⁴⁸ *Laws of Iowa*, 1911, p. 138.
- ⁷⁴⁹ *Laws of Iowa*, 1902, pp. 69, 70.

- 750 *Laws of Iowa*, 1907, p. 145.
- 751 *Laws of Iowa*, 1909, p. 157.
- 752 *Laws of Iowa*, 1911, p. 139.
- 753 *Laws of Iowa*, 1907, pp. 182, 183.
- 754 *Laws of Iowa*, 1898, p. 39.
- 755 *Laws of Iowa*, 1900, pp. 62, 63.
- 756 *Laws of Iowa*, 1902, pp. 63, 120.
- 757 *Laws of Iowa*, 1904, pp. 93-97.
- 758 *Laws of Iowa*, 1911, pp. 120, 121.
- 759 *Laws of Iowa*, 1906, pp. 74, 75.
- 760 *Laws of Iowa*, 1907, p. 184; *Laws of Iowa*, 1913, pp. 307-309.

CHAPTER XVII

- 761 *Laws of Iowa*, 1900, p. 94.
- 762 *Laws of Iowa*, 1909, p. 199.
- 763 *Laws of Iowa*, 1911, p. 193.
- 764 *Laws of Iowa*, 1907, pp. 184, 185.
- 765 *Laws of Iowa*, 1900, p. 94.
- 766 *Laws of Iowa*, 1909, p. 138.
- 767 *Laws of Iowa*, 1911, p. 187.
- 768 *Laws of Iowa*, 1906, p. 114.
- 769 *Laws of Iowa*, 1909, p. 194.
- 770 *Laws of Iowa*, 1907, p. 173.
- 771 *Laws of Iowa*, 1909, pp. 198, 199.
- 772 *Laws of Iowa*, 1906, p. 114.
- 773 *Laws of Iowa*, 1913, p. 313.
- 774 *Laws of Iowa*, 1909, pp. 196-198.
- 775 *Laws of Iowa*, 1909, p. 198.
- 776 *The Register and Leader* (Des Moines), Vol. LXVI, No. 32, August 2, 1914. There are now fourteen "dry" States. The result

of the November election added Arizona, Colorado, Oregon, and Washington to the ten — Georgia, Kansas, Maine, Mississippi, North Carolina, North Dakota, Oklahoma, Tennessee, Virginia, and West Virginia — which had formerly declared for State-wide prohibition. — *Independent*, Vol. LXXX, pp. 6, 230.

⁷⁷⁷ *Laws of Iowa*, 1900, pp. 59, 60, 164, 165.

⁷⁷⁸ *Laws of Iowa*, 1902, pp. 60, 61.

⁷⁷⁹ *Laws of Iowa*, 1904, p. 92.

⁷⁸⁰ *Laws of Iowa*, 1904, pp. 3, 91, 92.

⁷⁸¹ *Laws of Iowa*, 1906, pp. 69-71.

⁷⁸² *Laws of Iowa*, 1907, pp. 125-127.

⁷⁸³ *Laws of Iowa*, 1909, p. 139.

⁷⁸⁴ *Laws of Iowa*, 1909, p. 140.

⁷⁸⁵ *Laws of Iowa*, 1909, pp. 136-138.

⁷⁸⁶ *Laws of Iowa*, 1911, pp. 101, 102.

⁷⁸⁷ *Laws of Iowa*, 1911, pp. 102, 103.

⁷⁸⁸ *Laws of Iowa*, 1911, p. 118.

⁷⁸⁹ *Laws of Iowa*, 1911, p. 104.

⁷⁹⁰ *Laws of Iowa*, 1913, pp. 213-215, 311.

⁷⁹¹ *Laws of Iowa*, 1913, p. 261.

⁷⁹² *Laws of Iowa*, 1909, pp. 202, 203.

⁷⁹³ *Laws of Iowa*, 1913, p. 311.

⁷⁹⁴ *Laws of Iowa*, 1904, p. 125.

⁷⁹⁵ *Laws of Iowa*, 1907, p. 26.

⁷⁹⁶ *Laws of Iowa*, 1909, pp. 179, 180.

⁷⁹⁷ *Laws of Iowa*, 1900, p. 10.

⁷⁹⁸ *Laws of Iowa*, 1911, p. 194.

⁷⁹⁹ *Laws of Iowa*, 1904, p. 123.

⁸⁰⁰ *Laws of Iowa*, 1907, p. 174.

CHAPTER XVIII

⁸⁰¹ The first interference by the government in domestic affairs was in the establishment of civil marriage following Luther's overthrow of the ecclesiastical control thereof. Thus marriage and the family came to be recognized as social institutions. After civil marriage came its counterpart — civil divorce. Next the State entered the home and compelled the children to attend public schools. Later the labor of children under unfavorable conditions became a menace and it has been regulated. Juvenile courts have been established to control unruly and incorrigible children. Recognizing the vital importance of normal home life, the government has undertaken to provide artificial homes for certain classes. Recently mothers' pensions have taken cognizance of the same principle. In some places food is furnished by the public to underfed school children. Just now people are confronted with the proposition of eugenics and the sterilization of defectives: the artificial, scientific improvement of the human race. It is to be hoped that the time will come when Common Law marriages will be abolished, when the parties to the marriage will be required to be of legal age, when the approaching ceremony must be publicly announced for a specified period preceding the issuance of the license, when there will be a thorough system of vital statistics, and when there will be a trained civil officer for the special business of solemnizing wedlock. — Howard's *Social Control of the Domestic Relations* in *The American Journal of Sociology*, Vol. XVI, pp. 807-817.

⁸⁰² *Laws of Iowa*, 1902, p. 100.

⁸⁰³ *Laws of Iowa*, 1906, pp. 77, 78.

⁸⁰⁴ *Laws of Iowa*, 1907, p. 167.

⁸⁰⁵ *Laws of Iowa*, 1907, pp. 171, 172.

⁸⁰⁶ *Laws of Iowa*, 1909, p. 194.

⁸⁰⁷ *Laws of Iowa*, 1913, pp. 210, 287, 288.

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